

Representative Matthew H. Gwynn proposes the following substitute bill:

CRIMINAL CODE RECODIFICATION AND CROSS

REFERENCES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure and clarifying existing law.

Highlighted Provisions:

This bill:

▶ reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 8, Offenses Against the Administration of Government;

▶ for clarity, makes technical corrections to certain statutes resulting from the 2022 criminal code recodification:

• in Title 76, Chapter 1, General Provisions, to reflect separation of aggravated human trafficking and aggravated human smuggling into separate statutes; and

• in Title 76, Chapter 3, Punishments, to reflect mandatory imprisonment for sexual abuse of a child;

▶ makes technical corrections to certain statutes resulting from the 2023 criminal code recodification:

• in Title 76, Chapter 6, Offenses Against Property, regarding erroneous inclusion



26 of penalty provision in offense concerning unlawful dealing of property by a fiduciary; and
27 • in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, to reflect separation
28 of criminal mischief statute into two separate offenses;
29 ▶ for clarity, creates new definition of "harm" for definitions section of Title 76,
30 Chapter 8, Offenses Against the Administration of Government, based upon
31 existing definitions in chapter and revises relevant offenses to reflect change;
32 ▶ reorganizes the following offenses to enact an embedded offense as a stand-alone
33 statute:
34 • offense concerning receiving bribe or bribery for endorsement of person as
35 public servant;
36 • offense of interference with public servant; and
37 • offense concerning obstruction of justice in a criminal investigation or
38 proceeding;
39 ▶ reorganizes and clarifies existing language in offense of escape and enacts
40 embedded offense of aggravated escape as stand-alone statute;
41 ▶ reorganizes existing statutes concerning secure areas, including enacting a number
42 of statutes to reflect separate stand-alone offenses;
43 ▶ reorganizes the offense of threatening an elected official;
44 ▶ reorganizes offenses concerning influencing, impeding, or retaliating against a judge
45 or a member of the Board of Pardons and Parole or a family member and enacts
46 several stand-alone statutes to reflect separate embedded offenses;
47 ▶ for clarity, revises offense concerning refusal to comply with an order to evacuate or
48 another order issued in a local or state emergency;
49 ▶ for clarity, reorganizes and revises offenses concerning aiding or concealing an
50 adjudicated minor and trespass of a secure care facility;
51 ▶ for clarity, revises statutes concerning misusing public money or public property;
52 ▶ reorganizes offenses concerning refusing to give tax assessor or tax or license
53 collector a list of, or denying access to, employees to enact embedded offense as a
54 stand-alone statute;
55 ▶ for clarity, revises language in offense concerning stealing, destroying, or mutilating
56 public records by a custodian;

- 57 ▶ reorganizes offenses concerning taking a toll or maintaining road, bridge, or ferry
- 58 without authority to enact an embedded offense as a stand-alone statute;
- 59 ▶ for clarity, revises statutes concerning false or inconsistent statements;
- 60 ▶ reorganizes offenses concerning tampering with a witness and receiving or
- 61 soliciting a bribe to enact embedded offense as a stand-alone statute;
- 62 ▶ reorganizes offenses concerning a wrongful attachment by a justice court to enact
- 63 embedded offense as a stand-alone statute;
- 64 ▶ for clarity, removes provisions from Title 76, Chapter 8, Part 7, Colleges and
- 65 Universities, and places them in Title 53B, State System of Higher Education;
- 66 ▶ for clarity, revises and reorganizes offenses:
 - 67 • concerning criminal trespass upon an institution of higher education and willful
 - 68 interference with lawful activities of students or faculty; and
 - 69 • contained in Title 76, Chapter 8, Part 8, Sabotage Prevention;
- 70 ▶ for clarity, repeals duplicative language concerning criminal offenses and penalties
- 71 relating to revenue and taxation;
- 72 ▶ for clarity, revises and reorganizes offenses in:
 - 73 • Title 76, Chapter 8, Part 12, Public Assistance Fraud; and
 - 74 • Title 76, Chapter 8, Part 13, Unemployment Insurance Fraud; and
- 75 ▶ makes technical and conforming changes.

76 **Money Appropriated in this Bill:**

77 None

78 **Other Special Clauses:**

79 None

80 **Utah Code Sections Affected:**

81 AMENDS:

82 17-22-5, as last amended by Laws of Utah 2004, Chapter 301

83 26B-6-205, as renumbered and amended by Laws of Utah 2023, Chapter 308

84 35A-3-603, as last amended by Laws of Utah 2023, Chapter 328

85 35A-3-604, as last amended by Laws of Utah 2015, Chapter 221

86 35A-4-304, as last amended by Laws of Utah 2012, Chapter 15

87 35A-4-305, as last amended by Laws of Utah 2012, Chapter 15

- 88 [35A-4-312](#), as last amended by Laws of Utah 2016, Chapter 296
- 89 [53-10-403](#), as last amended by Laws of Utah 2023, Chapters 328, 457
- 90 [53B-3-103](#), as last amended by Laws of Utah 2021, First Special Session, Chapter 7
- 91 [59-1-401](#), as last amended by Laws of Utah 2023, Chapter 471
- 92 [63G-12-402](#), as last amended by Laws of Utah 2022, Chapters 328, 370
- 93 [64-13-14.5](#), as last amended by Laws of Utah 2015, Chapter 412
- 94 [76-1-301](#), as last amended by Laws of Utah 2022, Chapter 181
- 95 [76-3-203.1](#), as last amended by Laws of Utah 2023, Chapter 111
- 96 [76-3-203.3](#), as last amended by Laws of Utah 2023, Chapter 111
- 97 [76-3-203.5](#), as last amended by Laws of Utah 2023, Chapter 111
- 98 [76-3-406](#), as last amended by Laws of Utah 2023, Chapter 184
- 99 [76-5-203](#), as last amended by Laws of Utah 2022, Chapter 181
- 100 [76-6-513](#), as last amended by Laws of Utah 2023, Chapter 111
- 101 [76-8-101](#), as last amended by Laws of Utah 2019, Chapter 211
- 102 [76-8-102](#), as enacted by Laws of Utah 1973, Chapter 196
- 103 [76-8-103](#), as last amended by Laws of Utah 1998, Chapter 92
- 104 [76-8-104](#), as last amended by Laws of Utah 1991, Chapter 215
- 105 [76-8-105](#), as repealed and reenacted by Laws of Utah 1998, Chapter 92
- 106 [76-8-106](#), as enacted by Laws of Utah 1973, Chapter 196
- 107 [76-8-107](#), as last amended by Laws of Utah 1974, Chapter 32
- 108 [76-8-108](#), as last amended by Laws of Utah 1985, Chapter 21
- 109 [76-8-110](#), as last amended by Laws of Utah 1992, Chapter 128
- 110 [76-8-201](#), as enacted by Laws of Utah 1973, Chapter 196
- 111 [76-8-202](#), as last amended by Laws of Utah 1991, Chapter 241
- 112 [76-8-203](#), as last amended by Laws of Utah 2011, Chapter 336
- 113 [76-8-301](#), as last amended by Laws of Utah 2020, Chapter 165
- 114 [76-8-301.5](#), as last amended by Laws of Utah 2019, Chapter 411
- 115 [76-8-302](#), as enacted by Laws of Utah 1973, Chapter 196
- 116 [76-8-303](#), as enacted by Laws of Utah 1973, Chapter 196
- 117 [76-8-305](#), as last amended by Laws of Utah 2017, Chapter 312
- 118 [76-8-305.5](#), as last amended by Laws of Utah 2018, Chapter 133

- 119 [76-8-306](#), as last amended by Laws of Utah 2021, Chapter 262
- 120 [76-8-306.5](#), as enacted by Laws of Utah 2007, Chapter 155
- 121 [76-8-307](#), as enacted by Laws of Utah 1973, Chapter 196
- 122 [76-8-308](#), as last amended by Laws of Utah 1991, Chapter 241
- 123 [76-8-309](#), as last amended by Laws of Utah 2022, Chapter 181
- 124 [76-8-311.1](#), as last amended by Laws of Utah 2023, Chapter 330
- 125 [76-8-311.3](#), as last amended by Laws of Utah 2023, Chapter 330
- 126 [76-8-312](#), as last amended by Laws of Utah 1974, Chapter 32
- 127 [76-8-313](#), as last amended by Laws of Utah 1996, Chapter 45
- 128 [76-8-316](#), as last amended by Laws of Utah 2022, Chapter 181
- 129 [76-8-317](#), as last amended by Laws of Utah 2013, Chapter 295
- 130 [76-8-318](#), as last amended by Laws of Utah 2022, Chapters 181, 335
- 131 [76-8-402](#), as last amended by Laws of Utah 2020, Chapter 61
- 132 [76-8-403](#), as last amended by Laws of Utah 2020, Chapter 61
- 133 [76-8-405](#), as enacted by Laws of Utah 1973, Chapter 196
- 134 [76-8-406](#), as enacted by Laws of Utah 1973, Chapter 196
- 135 [76-8-407](#), as enacted by Laws of Utah 1973, Chapter 196
- 136 [76-8-408](#), as enacted by Laws of Utah 1973, Chapter 196
- 137 [76-8-409](#), as last amended by Laws of Utah 1991, Chapter 5
- 138 [76-8-410](#), as enacted by Laws of Utah 1973, Chapter 196
- 139 [76-8-411](#), as enacted by Laws of Utah 1973, Chapter 196
- 140 [76-8-412](#), as enacted by Laws of Utah 1973, Chapter 196
- 141 [76-8-413](#), as enacted by Laws of Utah 1973, Chapter 196
- 142 [76-8-414](#), as enacted by Laws of Utah 1973, Chapter 196
- 143 [76-8-415](#), as enacted by Laws of Utah 1973, Chapter 196
- 144 [76-8-416](#), as enacted by Laws of Utah 1973, Chapter 196
- 145 [76-8-417](#), as enacted by Laws of Utah 1973, Chapter 196
- 146 [76-8-418](#), as last amended by Laws of Utah 2022, Chapter 335
- 147 [76-8-419](#), as last amended by Laws of Utah 2002, Chapter 166
- 148 [76-8-420](#), as last amended by Laws of Utah 2007, Chapter 229
- 149 [76-8-501](#), as last amended by Laws of Utah 2018, Chapter 298

- 150 [76-8-502](#), as last amended by Laws of Utah 1997, Chapter 324
- 151 [76-8-503](#), as last amended by Laws of Utah 2014, Chapter 167
- 152 [76-8-504](#), as last amended by Laws of Utah 2022, Chapter 328
- 153 [76-8-504.5](#), as enacted by Laws of Utah 1999, Chapter 215
- 154 [76-8-504.6](#), as last amended by Laws of Utah 2015, Chapter 131
- 155 [76-8-506](#), as last amended by Laws of Utah 2005, Chapter 92
- 156 [76-8-507](#), as last amended by Laws of Utah 2002, Chapter 42
- 157 [76-8-508](#), as last amended by Laws of Utah 2004, Chapter 140
- 158 [76-8-508.3](#), as enacted by Laws of Utah 2004, Chapter 140
- 159 [76-8-508.5](#), as last amended by Laws of Utah 1992, Chapter 219
- 160 [76-8-509](#), as enacted by Laws of Utah 1973, Chapter 196
- 161 [76-8-510.5](#), as last amended by Laws of Utah 2014, Chapter 167
- 162 [76-8-511](#), as last amended by Laws of Utah 2003, Chapter 238
- 163 [76-8-512](#), as last amended by Laws of Utah 2013, First Special Session, Chapter 4
- 164 [76-8-513](#), as enacted by Laws of Utah 1973, Chapter 196
- 165 [76-8-515](#), as enacted by Laws of Utah 2023, Chapter 179
- 166 [76-8-601](#), as last amended by Laws of Utah 2008, Chapter 3
- 167 [76-8-602](#), as last amended by Laws of Utah 1990, Chapter 59
- 168 [76-8-603](#), as last amended by Laws of Utah 1990, Chapter 59
- 169 [76-8-703](#), as repealed and reenacted by Laws of Utah 2013, Chapter 257
- 170 [76-8-705](#), as last amended by Laws of Utah 2013, Chapter 257
- 171 [76-8-802](#), as enacted by Laws of Utah 1973, Chapter 196
- 172 [76-8-803](#), as enacted by Laws of Utah 1973, Chapter 196
- 173 [76-8-804](#), as enacted by Laws of Utah 1973, Chapter 196
- 174 [76-8-805](#), as enacted by Laws of Utah 1973, Chapter 196
- 175 [76-8-807](#), as enacted by Laws of Utah 1973, Chapter 196
- 176 [76-8-809](#), as last amended by Laws of Utah 2023, Chapter 435
- 177 [76-8-810](#), as enacted by Laws of Utah 1973, Chapter 196
- 178 [76-8-811](#), as last amended by Laws of Utah 1995, Chapter 20
- 179 [76-8-901](#), as enacted by Laws of Utah 1973, Chapter 196
- 180 [76-8-902](#), as enacted by Laws of Utah 1973, Chapter 196

- 181 [76-8-903](#), as enacted by Laws of Utah 1973, Chapter 196
- 182 [76-8-904](#), as enacted by Laws of Utah 1973, Chapter 196
- 183 [76-8-1201](#), as last amended by Laws of Utah 2015, Chapter 221
- 184 [76-8-1203](#), as last amended by Laws of Utah 2010, Chapter 94
- 185 [76-8-1207](#), as last amended by Laws of Utah 2000, Chapter 48
- 186 [76-8-1301](#), as last amended by Laws of Utah 2010, Chapter 193
- 187 [76-8-1402](#), as enacted by Laws of Utah 2004, Chapter 107
- 188 [76-8-1403](#), as last amended by Laws of Utah 2018, Chapter 133
- 189 [76-9-802](#), as last amended by Laws of Utah 2021, Chapter 64
- 190 [76-9-902](#), as last amended by Laws of Utah 2020, Chapter 394
- 191 [76-9-1008](#), as last amended by Laws of Utah 2013, Chapter 278
- 192 [76-10-306](#), as last amended by Laws of Utah 2010, Chapter 61
- 193 [76-10-1602](#), as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330
- 194 [77-23a-8](#), as last amended by Laws of Utah 2023, Chapter 111
- 195 [77-36-1](#), as last amended by Laws of Utah 2022, Chapters 185, 430
- 196 [77-36-1.1](#), as last amended by Laws of Utah 2023, Chapters 111, 184
- 197 [77-37-3](#), as last amended by Laws of Utah 2023, Chapter 448

198 ENACTS:

- 199 [53B-20-107](#), Utah Code Annotated 1953
- 200 [76-8-106.1](#), Utah Code Annotated 1953
- 201 [76-8-301.2](#), Utah Code Annotated 1953
- 202 [76-8-309.1](#), Utah Code Annotated 1953
- 203 [76-8-309.2](#), Utah Code Annotated 1953
- 204 [76-8-311.2](#), Utah Code Annotated 1953
- 205 [76-8-311.4](#), Utah Code Annotated 1953
- 206 [76-8-311.6](#), Utah Code Annotated 1953
- 207 [76-8-311.7](#), Utah Code Annotated 1953
- 208 [76-8-311.8](#), Utah Code Annotated 1953
- 209 [76-8-311.9](#), Utah Code Annotated 1953
- 210 [76-8-311.10](#), Utah Code Annotated 1953
- 211 [76-8-316.2](#), Utah Code Annotated 1953

- 212 [76-8-316.4](#), Utah Code Annotated 1953
- 213 [76-8-316.6](#), Utah Code Annotated 1953
- 214 [76-8-320](#), Utah Code Annotated 1953
- 215 [76-8-409.2](#), Utah Code Annotated 1953
- 216 [76-8-416.2](#), Utah Code Annotated 1953
- 217 [76-8-508.7](#), Utah Code Annotated 1953
- 218 [76-8-604](#), Utah Code Annotated 1953
- 219 [76-8-1203.1](#), Utah Code Annotated 1953
- 220 [76-8-1203.3](#), Utah Code Annotated 1953
- 221 [76-8-1203.5](#), Utah Code Annotated 1953
- 222 [76-8-1203.7](#), Utah Code Annotated 1953
- 223 [76-8-1302](#), Utah Code Annotated 1953
- 224 [76-8-1303](#), Utah Code Annotated 1953
- 225 [76-8-1304](#), Utah Code Annotated 1953

226 RENUMBERS AND AMENDS:

- 227 [76-8-319](#), (Renumbered from 76-8-311.5, as renumbered and amended by Laws of
- 228 Utah 2021, Chapter 261)

229 REPEALS:

- 230 [76-8-314](#), as last amended by Laws of Utah 1996, Chapter 45
- 231 [76-8-315](#), as enacted by Laws of Utah 1983, Chapter 330
- 232 [76-8-404](#), as last amended by Laws of Utah 2020, Chapter 61
- 233 [76-8-505](#), as last amended by Laws of Utah 1997, Chapter 324
- 234 [76-8-701](#), as last amended by Laws of Utah 2013, Chapters 10, 257
- 235 [76-8-702](#), as last amended by Laws of Utah 2013, Chapter 257
- 236 [76-8-707](#), as last amended by Laws of Utah 1993, Chapter 234
- 237 [76-8-709](#), as last amended by Laws of Utah 2013, Chapter 257
- 238 [76-8-716](#), as enacted by Laws of Utah 1973, Chapter 196
- 239 [76-8-717](#), as last amended by Laws of Utah 2013, Chapter 257
- 240 [76-8-801](#), as enacted by Laws of Utah 1973, Chapter 196
- 241 [76-8-806](#), as last amended by Laws of Utah 1997, Chapter 296
- 242 [76-8-808](#), as enacted by Laws of Utah 1973, Chapter 196

- 243 [76-8-1101](#), as last amended by Laws of Utah 2014, Chapter 52
- 244 [76-8-1202](#), as last amended by Laws of Utah 2023, Chapter 330
- 245 [76-8-1204](#), as last amended by Laws of Utah 2000, Chapter 48
- 246 [76-8-1205](#), as last amended by Laws of Utah 2015, Chapter 221
- 247 [76-8-1206](#), as last amended by Laws of Utah 2012, Chapter 41
- 248 [76-8-1401](#), as enacted by Laws of Utah 2004, Chapter 107

249

250 *Be it enacted by the Legislature of the state of Utah:*

251 Section 1. Section [17-22-5](#) is amended to read:

252 **17-22-5. Sheriff's classification of jail inmates -- Classification criteria --**
 253 **Alternative incarceration programs -- Limitation.**

254 (1) Except as provided in Subsection (4), the sheriff shall adopt and implement written
 255 policies for admission of prisoners to the county jail and the classification of persons
 256 incarcerated in the jail which shall provide for the separation of prisoners by gender and by
 257 such other factors as may reasonably provide for the safety and well-being of inmates and the
 258 community. To the extent authorized by law, any written admission policies shall be applied
 259 equally to all entities using the county correctional facilities.

260 (2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a
 261 facility or section of a facility based on classification criteria that the sheriff develops and
 262 maintains.

263 (3) (a) Except as provided in Subsection (4), a county sheriff may develop and
 264 implement alternative incarceration programs that may or may not involve housing a prisoner
 265 in a jail facility.

266 (b) A prisoner housed under an alternative incarceration program under Subsection
 267 (3)(a) shall be considered to be in the full custody and control of the sheriff for purposes of
 268 [Section] Sections [76-8-309](#) and [76-8-309.1](#).

269 (c) A prisoner may not be placed in an alternative incarceration program under
 270 Subsection (3)(a) unless:

271 (i) the jail facility is at maximum operating capacity, as established under Subsection
 272 [17-22-5.5\(2\)](#); or

273 (ii) ordered by the court.

274 (4) This section may not be construed to authorize a sheriff to modify provisions of a
275 contract with the Department of Corrections to house in a county jail persons sentenced to the
276 Department of Corrections.

277 Section 2. Section **26B-6-205** is amended to read:

278 **26B-6-205. Reporting requirements -- Investigation -- Exceptions -- Immunity --**
279 **Penalties -- Nonmedical healing.**

280 (1) Except as provided in Subsection (4), if an individual has reason to believe that a
281 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
282 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective
283 Services or to the nearest peace officer or law enforcement agency.

284 (2) (a) If a peace officer or a law enforcement agency receives a report under
285 Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult
286 Protective Services.

287 (b) Adult Protective Services and the peace officer or the law enforcement agency shall
288 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
289 protection to the vulnerable adult.

290 (3) When a report under Subsection (1), or a subsequent investigation by Adult
291 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
292 adult:

293 (a) Adult Protective Services shall notify the nearest local law enforcement agency
294 regarding the potential offense; and

295 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
296 Protective Services.

297 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
298 does not apply to:

299 (a) a member of the clergy, with regard to any confession made to the member of the
300 clergy while functioning in the ministerial capacity of the member of the clergy and without the
301 consent of the individual making the confession, if:

302 (i) the perpetrator made the confession directly to the member of the clergy; and

303 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
304 to maintain the confidentiality of that confession; or

305 (b) an attorney, or an individual employed by the attorney, if knowledge of the
306 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
307 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
308 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in
309 accordance with Utah Rules of Professional Conduct, Rule 1.6.

310 (5) (a) When a member of the clergy receives information about abuse, neglect, or
311 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
312 member of the clergy is required to report that information even though the member of the
313 clergy may have also received information about abuse, neglect, or exploitation from the
314 confession of the perpetrator.

315 (b) Exemption of the reporting requirement for an individual described in Subsection
316 (4) does not exempt the individual from any other efforts required by law to prevent further
317 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

318 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to
319 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
320 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

321 (b) The physician-patient privilege does not:

322 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
323 vulnerable adult under Subsection (1); or

324 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
325 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
326 resulting from a report under Subsection (1).

327 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
328 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
329 immune from civil and criminal liability in connection with the report or notification.

330 (b) A covered provider or covered contractor, as defined in Section [26B-2-238](#), that
331 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
332 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
333 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
334 exploitation of a vulnerable adult that is committed by the individual who was not reported to
335 Adult Protective Services or to the nearest peace officer or law enforcement agency.

336 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
337 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
338 Act of Utah.

339 (8) If Adult Protective Services has substantial grounds to believe that an individual
340 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
341 accordance with this section, Adult Protective Services shall file a complaint with:

342 (a) the Division of Professional Licensing if the individual is a health care provider, as
343 defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

344 (b) the appropriate law enforcement agency if the individual is a law enforcement
345 officer, as defined in Section 53-13-103; and

346 (c) the State Board of Education if the individual is an educator, as defined in Section
347 53E-6-102.

348 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
349 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
350 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

351 (b) If an individual is convicted under Subsection (9)(a), the court may order the
352 individual, in addition to any other sentence the court imposes, to:

353 (i) complete community service hours; or

354 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
355 adults.

356 (c) In determining whether it would be appropriate to charge an individual with a
357 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
358 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a
359 vulnerable adult because reporting would have placed the individual in immediate danger of
360 death or serious bodily injury.

361 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
362 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
363 another offense.

364 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
365 within two years after the day on which the individual had knowledge of the suspected abuse,
366 neglect, or exploitation and willfully failed to report.

367 (10) Under circumstances not amounting to a violation of Section [76-8-508](#) or
368 [76-8-508.7](#), an individual is guilty of a class B misdemeanor if the individual threatens,
369 intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under
370 Subsection (1), the individual who made the report under Subsection (1), a witness, or any
371 other person cooperating with an investigation conducted in accordance with this chapter.

372 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
373 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
374 medical care.

375 Section 3. Section **35A-3-603** is amended to read:

376 **35A-3-603. Civil liability for overpayment.**

377 (1) A provider, recipient, or other person who receives an overpayment shall,
378 regardless of fault, return the overpayment or repay its value to the department immediately:

379 (a) upon receiving written notice of the overpayment from the department; or

380 (b) upon discovering the overpayment, if that occurs before receiving notice.

381 (2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance
382 of the overpayment shall accrue at the rate of 1% a month.

383 (b) If the overpayment was not the fault of the person receiving it, that person is not
384 liable for interest on the unreturned balance.

385 (c) In accordance with federal law and rules made by the department in accordance
386 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be
387 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other
388 cash-related assistance provided to a recipient under this chapter, or other means provided by
389 federal law.

390 (3) A person who knowingly assists a recipient, provider, or other person in obtaining
391 an overpayment is jointly and severally liable for the overpayment.

392 (4) (a) In proving civil liability for overpayment under this section, or Section
393 [35A-3-605](#), when fault is alleged, the department shall prove by clear and convincing evidence
394 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,
395 knowingly, and recklessly" are defined in Section [76-2-103](#), by false statement,
396 misrepresentation, impersonation, or other fraudulent means, including committing any of the
397 acts or omissions described in Sections [~~[76-8-1203](#), [76-8-1204](#), or [76-8-1205](#)~~] [76-8-1203.1](#),

398 [76-8-1203.3](#), [76-8-1203.5](#), or [76-8-1203.7](#).

399 (b) If fault is established under Subsection (4)(a), Section [35A-3-605](#), or Title 76,
400 Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an
401 overpayment is subject to:

402 (i) a civil penalty of 10% of the amount of the overpayment, except for overpayments
403 related to assistance for child care services;

404 (ii) a civil penalty of 50% of the amount of the overpayment for overpayments related
405 to assistance for child care services;

406 (iii) disqualification from receiving cash assistance from the Family Employment
407 Program created in Section [35A-3-302](#) and the General Assistance program under Section
408 [35A-3-401](#), if the overpayment was obtained from either of those programs, for the period
409 described in Subsection (4)(c); and

410 (iv) disqualification from SNAP, if the overpayment was received from SNAP, for the
411 period described in Subsection (4)(c).

412 (c) Unless otherwise provided by federal law, the period of a disqualification under
413 Subsections (4)(b)(iii) and (iv) is for:

414 (i) 12 months for a first offense;

415 (ii) 24 months for a second offense; and

416 (iii) permanently for a third offense.

417 (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department
418 may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

419 (b) If the repayment obligation arose from an administrative error by the department,
420 the department may not recover attorney fees and costs.

421 (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the
422 person from whom repayment is sought, the court shall assess an additional sum as considered
423 appropriate as punitive damages up to the amount of repayment being sought.

424 (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8,
425 Part 12, Public Assistance Fraud.

426 (8) Jurisdiction over benefits is continuous.

427 (9) This chapter does not preclude the Department of Health and Human Services from
428 carrying out its responsibilities under Title 26B, Chapter 3, Part 10, Medical Benefits

429 Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

430 Section 4. Section **35A-3-604** is amended to read:

431 **35A-3-604. Obligor presumed to have notice of department's rights -- Authority**
432 **to administer oaths, issue subpoenas, and compel witnesses and production of documents**
433 **-- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative**
434 **procedures.**

435 (1) An obligor is presumed to have received notice of the rights of the department
436 under this part upon engaging in this state in any of the acts described in Subsections
437 [35A-3-603\(3\)](#) and (4) or Section [~~76-8-1203, 76-8-1204, or 76-8-1205~~] [76-8-1203.1](#),
438 [76-8-1203.3](#), [76-8-1203.5](#), or [76-8-1203.7](#).

439 (2) For the purposes of this part, the department may administer oaths and certify
440 official acts, issue subpoenas, and compel witnesses and the production of business records,
441 documents, and evidence.

442 (3) (a) Except when an overpayment results from administrative error, the department
443 may recover from the obligor:

- 444 (i) reasonable [~~attorneys'~~] attorney fees;
- 445 (ii) costs incurred in pursuing administrative remedies under this part; and
- 446 (iii) interest at the rate of 1% a month accruing from the date an administrative or
447 judicial order is issued determining the amount due under this part.

448 (b) The department may recover interest, attorney fees, and costs, if notice of the
449 assessment has been included in a notice of agency action issued in compliance with Title 63G,
450 Chapter 4, Administrative Procedures Act.

451 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
452 department may make, amend, and enforce rules to carry out the provisions of this part.

453 (5) Service of all notices and orders under this part shall comply with:

- 454 (a) Title 63G, Chapter 4, Administrative Procedures Act;
- 455 (b) Utah Rules of Civil Procedure; or
- 456 (c) rules made by the department under this part in accordance with Title 63G, Chapter
457 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

458 Section 5. Section **35A-4-304** is amended to read:

459 **35A-4-304. Special provisions regarding transfers of unemployment experience**

460 **and assignment rates.**

461 (1) As used in this section:

462 (a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance
463 or reckless disregard for the prohibition involved.

464 (b) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal
465 Revenue Code of 1986.

466 (c) "Trade or business" includes the employer's workforce.

467 (d) "Violate or attempt to violate" includes intent to evade, misrepresentation, or
468 willful nondisclosure.

469 (2) Notwithstanding any other provision of this chapter, Subsections (3) and (4) shall
470 apply regarding assignment of rates and transfers of unemployment experience.

471 (3) (a) If an employer transfers its trade or business, or a portion of its trade or
472 business, to another employer and, at the time of the transfer, there is common ownership,
473 management, or control of the employers, then the unemployment experience attributable to
474 each employer shall be combined into a common experience rate calculation.

475 (b) The contribution rates of the employers shall be recalculated and made effective
476 upon the date of the transfer of trade or business as determined by division rule in accordance
477 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

478 (c) (i) If one or more of the employers is a qualified employer at the time of the
479 transfer, then all employing units that are party to a transfer described in Subsection (3)(a) of
480 this section shall be assigned an overall contribution rate under Subsection [35A-4-303\(4\)](#),
481 using combined unemployment experience rating factors, for the rate year during which the
482 transfer occurred and for the subsequent three rate years.

483 (ii) If none of the employing units is a qualified employer at the time of the transfer,
484 then all employing units that are party to the transfer described in Subsection (3)(a) shall be
485 assigned the highest overall contribution rate applicable at the time of the transfer to any
486 employer who is party to the acquisition for the rate year during which the transfer occurred
487 and for subsequent rate years until the time when one or more of the employing units is a
488 qualified employer.

489 (iii) Once one or more employing units described in Subsection (3)(c)(ii) is a qualified
490 employer, all the employing units shall be assigned an overall rate under Subsection

491 35A-4-303(4), using combined unemployment experience rating factors for subsequent rate
492 years, not to exceed three years following the year of the transfer.

493 (d) The transfer of some or all of an employer's workforce to another employer shall be
494 considered a transfer of its trade or business when, as the result of the transfer, the transferring
495 employer no longer performs trade or business with respect to the transferred workforce, and
496 the trade or business is now performed by the employer to whom the workforce is transferred.

497 (4) (a) Whenever a person is not an employer under this chapter at the time it acquires
498 the trade or business of an employer, the unemployment experience of the acquired business
499 may not be transferred to that person if the division finds that the person acquired the business
500 solely or primarily for the purpose of obtaining a lower rate of contributions.

501 (b) The person shall be assigned the applicable new employer rate under Subsection
502 35A-4-303(5).

503 (c) In determining whether the business was acquired solely or primarily for the
504 purpose of obtaining a lower rate of contributions, the division shall use objective factors
505 which may include:

506 (i) the cost of acquiring the business;

507 (ii) whether the person continued the business enterprise of the acquired business;

508 (iii) how long the business enterprise was continued; or

509 (iv) whether a substantial number of new employees were hired for performance of
510 duties unrelated to the business activity conducted prior to acquisition.

511 (5) (a) If a person knowingly violates or attempts to violate Subsection (3) or (4) or any
512 other provision of this chapter related to determining the assignment of a contribution rate, or if
513 a person knowingly advises another person in a way that results in a violation of any of those
514 subsections or provisions, the person is subject to the following penalties:

515 (i) (A) If the person is an employer, then the employer shall be assigned an overall
516 contribution rate of 5.4% for the rate year during which the violation or attempted violation
517 occurred and for the subsequent rate year.

518 (B) If the person's business is already at 5.4% for any year, or if the amount of increase
519 in the person's rate would be less than 2% for that year, then a penalty surcharge of
520 contributions of 2% of taxable wages shall be imposed for the rate year during which the
521 violation or attempted violation occurred and for the subsequent rate year.

522 (ii) (A) If the person is not an employer, the person shall be subject to a civil penalty of
523 not more than \$5,000.

524 (B) The fine shall be deposited in the penalty and interest account established under
525 Section [35A-4-506](#).

526 (b) (i) In addition to the penalty imposed by Subsection (5)(a), a violation of this
527 section may be prosecuted as unemployment insurance fraud.

528 (ii) The determination of the degree of an offense shall be measured by the total value
529 of all contributions avoided or reduced or contributions sought to be avoided or reduced by the
530 unlawful conduct as applied to the degrees listed under [~~Subsection 76-8-1301(2)(a)~~] Section
531 [76-8-1302](#) or [76-8-1303](#).

532 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
533 division shall make rules to identify the transfer or acquisition of a business for purposes of this
534 section.

535 (7) This section shall be interpreted and applied in a manner that meets the minimum
536 requirements contained in any guidance or regulations issued by the United States Department
537 of Labor.

538 Section 6. Section **35A-4-305** is amended to read:

539 **35A-4-305. Collection of contributions -- Unpaid contributions to bear interest --**
540 **Offer to compromise.**

541 (1) (a) Contributions unpaid on the date on which they are due and payable, as
542 prescribed by the division, shall bear interest at the rate of 1% per month from and after that
543 date until payment plus accrued interest is received by the division.

544 (b) (i) Contribution reports not made and filed by the date on which they are due as
545 prescribed by the division are subject to a penalty to be assessed and collected in the same
546 manner as contributions due under this section equal to 5% of the contribution due if the failure
547 to file on time was not more than 15 days, with an additional 5% for each additional 15 days or
548 fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and
549 not less than \$25 with respect to each reporting period.

550 (ii) If a report is filed after the required time and it is shown to the satisfaction of the
551 division or its authorized representative that the failure to file was due to a reasonable cause
552 and not to willful neglect, no addition shall be made to the contribution.

553 (c) (i) If contributions are unpaid after 10 days from the date of the mailing or personal
554 delivery by the division or its authorized representative, of a written demand for payment, there
555 shall attach to the contribution, to be assessed and collected in the same manner as
556 contributions due under this section, a penalty equal to 5% of the contribution due.

557 (ii) A penalty may not attach if within 10 days after the mailing or personal delivery,
558 arrangements for payment have been made with the division, or its authorized representative,
559 and payment is made in accordance with those arrangements.

560 (d) The division shall assess as a penalty a service charge, in addition to any other
561 penalties that may apply, in an amount not to exceed the service charge imposed by Section
562 7-15-1 for dishonored instruments if:

563 (i) any amount due the division for contributions, interest, other penalties or benefit
564 overpayments is paid by check, draft, order, or other instrument; and

565 (ii) the instrument is dishonored or not paid by the institution against which it is drawn.

566 (e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit
567 overpayments, contributions, interest, penalties, and assessed costs, uncollected three years
568 after they become due, may be charged as uncollectible and removed from the records of the
569 division if:

570 (i) no assets belonging to the liable person and subject to attachment can be found; and

571 (ii) in the opinion of the division there is no likelihood of collection at a future date.

572 (f) Interest and penalties collected in accordance with this section shall be paid into the
573 Special Administrative Expense Account created by Section 35A-4-506.

574 (g) Action required for the collection of sums due under this chapter is subject to the
575 applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

576 (2) (a) If an employer fails to file a report when prescribed by the division for the
577 purpose of determining the amount of the employer's contribution due under this chapter, or if
578 the report when filed is incorrect or insufficient or is not satisfactory to the division, the
579 division may determine the amount of wages paid for employment during the period or periods
580 with respect to which the reports were or should have been made and the amount of
581 contribution due from the employer on the basis of any information it may be able to obtain.

582 (b) The division shall give written notice of the determination to the employer.

583 (c) The determination is considered correct unless:

584 (i) the employer, within 10 days after mailing or personal delivery of notice of the
585 determination, applies to the division for a review of the determination as provided in Section
586 35A-4-508; or

587 (ii) unless the division or its authorized representative of its own motion reviews the
588 determination.

589 (d) The amount of contribution determined under Subsection (2)(a) is subject to
590 penalties and interest as provided in Subsection (1).

591 (3) (a) If, after due notice, an employer defaults in the payment of contributions,
592 interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit
593 overpayments and penalties on the overpayments, the amount due shall be collectible by civil
594 action in the name of the division, and the employer adjudged in default shall pay the costs of
595 the action.

596 (b) Civil actions brought under this section to collect contributions, interest, or
597 penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

598 (i) heard by the court at the earliest possible date; and

599 (ii) entitled to preference upon the calendar of the court over all other civil actions
600 except:

601 (A) petitions for judicial review under this chapter; and

602 (B) cases arising under the workers' compensation law of this state.

603 (c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and
604 penalties due from employers or claimants located outside Utah, the division may employ
605 private collectors providing debt collection services outside Utah.

606 (B) Accounts may be placed with private collectors only after the employer or claimant
607 has been given a final notice that the division intends to place the account with a private
608 collector for further collection action.

609 (C) The notice shall advise the employer or claimant of the employer's or claimant's
610 rights under this chapter and the applicable rules of the department.

611 (ii) (A) A private collector may receive as compensation up to 25% of the lesser of the
612 amount collected or the amount due, plus the costs and fees of any civil action or postjudgment
613 remedy instituted by the private collector with the approval of the division.

614 (B) The employer or claimant shall be liable to pay the compensation of the collector,

615 costs, and fees in addition to the original amount due.

616 (iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15
617 U.S.C. Sec. 1692 et seq.

618 (iv) (A) A civil action may not be maintained by a private collector without specific
619 prior written approval of the division.

620 (B) When division approval is given for civil action against an employer or claimant,
621 the division may cooperate with the private collector to the extent necessary to effect the civil
622 action.

623 (d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution,
624 interest, penalties or benefit overpayments and penalties, costs due, the name of the employer
625 or claimant, and the employer's or claimant's address and telephone number when any
626 collection matter is referred to a private collector under Subsection (3)(c).

627 (ii) A private collector is subject to the confidentiality requirements and penalty
628 provisions provided in [Section] Sections 35A-4-312 and [~~Subsection 76-8-1301(4)~~]
629 76-8-1304, except to the extent disclosure is necessary in a civil action to enforce collection of
630 the amounts due.

631 (e) An action taken by the division under this section may not be construed to be an
632 election to forego other collection procedures by the division.

633 (4) (a) In the event of a distribution of an employer's assets under an order of a court
634 under the laws of Utah, including a receivership, assignment for benefits of creditors,
635 adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter
636 due shall be paid in full prior to all other claims except taxes and claims for wages of not more
637 than \$400 to each claimant, earned within five months of the commencement of the
638 proceeding.

639 (b) If an employer commences a proceeding in the Federal Bankruptcy Court under a
640 chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and
641 Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due
642 shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy
643 Abuse Prevention and Consumer Protection Act of 2005.

644 (5) (a) In addition and as an alternative to any other remedy provided by this chapter
645 and provided that no appeal or other proceeding for review provided by this chapter is then

646 pending and the time for taking it has expired, the division may issue a warrant in duplicate,
647 under its official seal, directed to the sheriff of any county of the state, commanding the sheriff
648 to levy upon and sell the real and personal property of a delinquent employer or claimant found
649 within the sheriff's county for the payment of the contributions due, with the added penalties,
650 interest, or benefit overpayment and penalties, and costs, and to return the warrant to the
651 division and pay into the fund the money collected by virtue of the warrant by a time to be
652 specified in the warrant, not more than 60 days from the date of the warrant.

653 (b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the
654 duplicate with the clerk of the district court in the sheriff's county.

655 (ii) The clerk shall enter in the judgment docket, in the column for judgment debtors,
656 the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate
657 columns the amount of the contribution, penalties, interest, or benefit overpayment and
658 penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

659 (c) The amount of the docketed warrant shall:

660 (i) have the force and effect of an execution against all personal property of the
661 delinquent employer; and

662 (ii) become a lien upon the real property of the delinquent employer or claimant in the
663 same manner and to the same extent as a judgment duly rendered by a district court and
664 docketed in the office of the clerk.

665 (d) After docketing, the sheriff shall:

666 (i) proceed in the same manner as is prescribed by law with respect to execution issued
667 against property upon judgments of a court of record; and

668 (ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be
669 collected in the same manner.

670 (6) (a) Contributions imposed by this chapter are a lien upon the property of an
671 employer liable for the contribution required to be collected under this section who shall sell
672 out the employer's business or stock of goods or shall quit business, if the employer fails to
673 make a final report and payment on the date subsequent to the date of selling or quitting
674 business on which they are due and payable as prescribed by rule.

675 (b) (i) An employer's successor, successors, or assigns, if any, are required to withhold
676 sufficient of the purchase money to cover the amount of the contributions and interest or

677 penalties due and payable until the former owner produces a receipt from the division showing
678 that they have been paid or a certificate stating that no amount is due.

679 (ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase
680 money, the purchaser is personally liable for the payment of the amount of the contributions
681 required to be paid by the former owner, interest and penalties accrued and unpaid by the
682 former owner, owners, or assignors.

683 (7) (a) If an employer is delinquent in the payment of a contribution, the division may
684 give notice of the amount of the delinquency by registered mail to all persons having in their
685 possession or under their control, any credits or other personal property belonging to the
686 employer, or owing any debts to the employer at the time of the receipt by them of the notice.

687 (b) A person notified under Subsection (7)(a) shall neither transfer nor make any other
688 disposition of the credits, other personal property, or debts until:

689 (i) the division has consented to a transfer or disposition; or

690 (ii) 20 days after the receipt of the notice.

691 (c) All persons notified under Subsection (7)(a) shall, within five days after receipt of
692 the notice, advise the division of credits, other personal property, or other debts in their
693 possession, under their control or owing by them, as the case may be.

694 (8) (a) (i) Each employer shall furnish the division necessary information for the proper
695 administration of this chapter and shall include wage information for each employee, for each
696 calendar quarter.

697 (ii) The information shall be furnished at a time, in the form, and to those individuals
698 as the department may by rule require.

699 (b) (i) Each employer shall furnish each individual worker who is separated that
700 information as the department may by rule require, and shall furnish within 48 hours of the
701 receipt of a request from the division a report of the earnings of any individual during the
702 individual's base-period.

703 (ii) The report shall be on a form prescribed by the division and contain all information
704 prescribed by the division.

705 (c) (i) For each failure by an employer to conform to this Subsection (8) the division
706 shall, unless good cause is shown, assess a \$50 penalty if the filing was not more than 15 days
707 late.

708 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty
709 of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250
710 per filing.

711 (iii) The penalty is to be collected in the same manner as contributions due under this
712 chapter.

713 (d) (i) The division shall prescribe rules providing standards for determining which
714 contribution reports shall be filed on magnetic or electronic media or in other machine-readable
715 form.

716 (ii) In prescribing these rules, the division:

717 (A) may not require an employer to file contribution reports on magnetic or electronic
718 media unless the employer is required to file wage data on at least 250 employees during any
719 calendar quarter or is an authorized employer representative who files quarterly tax reports on
720 behalf of 100 or more employers during any calendar quarter;

721 (B) shall take into account, among other relevant factors, the ability of the employer to
722 comply at reasonable cost with the requirements of the rules; and

723 (C) may require an employer to post a bond for failure to comply with the rules
724 required by this Subsection (8)(d).

725 (9) (a) (i) An employer liable for payments in lieu of contributions shall file
726 Reimbursable Employment and Wage Reports.

727 (ii) The reports are due on the last day of the month that follows the end of each
728 calendar quarter unless the division, after giving notice, changes the due date.

729 (iii) A report postmarked on or before the due date is considered timely.

730 (b) (i) Unless the employer can show good cause, the division shall assess a \$50
731 penalty against an employer who does not file Reimbursable Employment and Wage Reports
732 within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

733 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty
734 of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250
735 per filing.

736 (iii) The division shall assess and collect the penalties referred to in this Subsection
737 (9)(b) in the same manner as prescribed in Sections [35A-4-309](#) and [35A-4-311](#).

738 (10) If a person liable to pay a contribution or benefit overpayment imposed by this

739 chapter neglects or refuses to pay it after demand, the amount, including any interest, additional
740 amount, addition to contributions, or assessable penalty, together with any additional accruable
741 costs, shall be a lien in favor of the division upon all property and rights to property, whether
742 real or personal belonging to the person.

743 (11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as
744 defined in the department rules, is made and continues until the liability for the amount
745 assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

746 (b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder
747 of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a
748 warrant with the clerk of the district court.

749 (ii) For the purposes of this Subsection (11)(b):

750 (A) "Judgment lien creditor" means a person who obtains a valid judgment of a court
751 of record for recovery of specific property or a sum certain of money, and who in the case of a
752 recovery of money, has a perfected lien under the judgment on the property involved. A
753 judgment lien does not include inchoate liens such as attachment or garnishment liens until
754 they ripen into a judgment. A judgment lien does not include the determination or assessment
755 of a quasi-judicial authority, such as a state or federal taxing authority.

756 (B) "Mechanics' lien holder" means any person who has a lien on real property, or on
757 the proceeds of a contract relating to real property, for services, labor, or materials furnished in
758 connection with the construction or improvement of the property. A person has a lien on the
759 earliest date the lien becomes valid against subsequent purchasers without actual notice, but not
760 before the person begins to furnish the services, labor, or materials.

761 (C) "Person" means:

762 (I) an individual;

763 (II) a trust;

764 (III) an estate;

765 (IV) a partnership;

766 (V) an association;

767 (VI) a company;

768 (VII) a limited liability company;

769 (VIII) a limited liability partnership; or

770 (IX) a corporation.

771 (D) "Purchaser" means a person who, for adequate and full consideration in money or
772 money's worth, acquires an interest, other than a lien or security interest, in property which is
773 valid under state law against subsequent purchasers without actual notice.

774 (E) "Security interest" means any interest in property acquired by contract for the
775 purpose of securing payment or performance of an obligation or indemnifying against loss or
776 liability. A security interest exists at any time:

777 (I) the property is in existence and the interest has become protected under the law
778 against a subsequent judgment lien arising out of an unsecured obligation; and

779 (II) to the extent that, at that time, the holder has parted with money or money's worth.

780 (12) (a) Except in cases involving a violation of unemployment compensation
781 provisions under Section [76-8-1301](#), [76-8-1302](#), [76-8-1303](#), [76-8-1304](#), Subsection
782 [35A-4-304\(5\)](#), or Subsection [35A-4-405\(5\)](#), and at the discretion of the division, the division
783 may accept an offer in compromise from an employer or claimant to reduce past due debt
784 arising from contributions or benefit overpayments imposed under this chapter.

785 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
786 division shall make rules for allowing an offer in compromise provided under Subsection
787 (12)(a).

788 Section 7. Section **35A-4-312** is amended to read:

789 **35A-4-312. Records.**

790 (1) (a) An employing unit shall keep true and accurate work records containing
791 information the department may prescribe by rule.

792 (b) A record shall be open to inspection and subject to being copied by the division or
793 its authorized representatives at a reasonable time and as often as necessary.

794 (c) An employing unit shall make a record available in the state for three years after the
795 calendar year in which the services are rendered.

796 (2) The division may require from an employing unit a sworn or unsworn report with
797 respect to a person employed by the employing unit that the division considers necessary for
798 the effective administration of this chapter.

799 (3) Except as provided in this section or in Sections [35A-4-103](#) and [35A-4-106](#),
800 information obtained under this chapter or obtained from an individual may not be published or

801 open to public inspection in a manner revealing the employing unit's or individual's identity.

802 (4) (a) The information obtained by the division under this section may not be used in
803 court or admitted into evidence in an action or proceeding, except:

804 (i) in an action or proceeding arising out of this chapter;

805 (ii) if the Labor Commission enters into a written agreement with the division under
806 Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

807 (A) Title 34, Chapter 23, Employment of Minors;

808 (B) Title 34, Chapter 28, Payment of Wages;

809 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

810 (D) Title 34A, Utah Labor Code;

811 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and
812 Section 63G-2-207; or

813 (iv) under the terms of a written agreement between the Office of State Debt Collection
814 and the division as provided in Subsection (5).

815 (b) The information obtained by the division under this section shall be disclosed to:

816 (i) a party to an unemployment insurance hearing before an administrative law judge of
817 the department or a review by the Workforce Appeals Board to the extent necessary for the
818 proper presentation of the party's case; or

819 (ii) an employer, upon request in writing for information concerning a claim for a
820 benefit with respect to a former employee of the employer.

821 (5) The information obtained by the division under this section may be disclosed to:

822 (a) an employee of the department in the performance of the employee's duties in
823 administering this chapter or other programs of the department;

824 (b) an employee of the Labor Commission for the purpose of carrying out the programs
825 administered by the Labor Commission;

826 (c) an employee of the Department of Commerce for the purpose of carrying out the
827 programs administered by the Department of Commerce;

828 (d) an employee of the governor's office or another state governmental agency
829 administratively responsible for statewide economic development, to the extent necessary for
830 economic development policy analysis and formulation;

831 (e) an employee of another governmental agency that is specifically identified and

832 authorized by federal or state law to receive the information for the purposes stated in the law
833 authorizing the employee of the agency to receive the information;

834 (f) an employee of a governmental agency or workers' compensation insurer to the
835 extent the information will aid in:

836 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

837 (A) a workers' compensation program; or

838 (B) public assistance funds; or

839 (ii) the recovery of overpayments of workers' compensation or public assistance funds;

840 (g) an employee of a law enforcement agency to the extent the disclosure is necessary
841 to avoid a significant risk to public safety or in aid of a felony criminal investigation;

842 (h) an employee of the State Tax Commission or the Internal Revenue Service for the
843 purposes of:

844 (i) audit verification or simplification;

845 (ii) state or federal tax compliance;

846 (iii) verification of a code or classification of the:

847 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of
848 the President, Office of Management and Budget; or

849 (B) 2002 North American Industry Classification System of the federal Executive
850 Office of the President, Office of Management and Budget; and

851 (iv) statistics;

852 (i) an employee or contractor of the department or an educational institution, or other
853 governmental entity engaged in workforce investment and development activities under the
854 Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq., for the purpose of:

855 (i) coordinating services with the department;

856 (ii) evaluating the effectiveness of those activities; and

857 (iii) measuring performance;

858 (j) an employee of the Governor's Office of Economic Opportunity, for the purpose of
859 periodically publishing in the Directory of Business and Industry, the name, address, telephone
860 number, number of employees by range, code or classification of an employer, and type of
861 ownership of Utah employers;

862 (k) the public for any purpose following a written waiver by all interested parties of

863 their rights to nondisclosure;

864 (l) an individual whose wage data is submitted to the department by an employer, if no
865 information other than the individual's wage data and the identity of the employer who
866 submitted the information is provided to the individual;

867 (m) an employee of the Insurance Department for the purpose of administering Title
868 31A, Chapter 40, Professional Employer Organization Licensing Act;

869 (n) an employee of the Office of State Debt Collection for the purpose of collecting
870 state accounts receivable as provided in Section [63A-3-502](#); or

871 (o) a creditor, under a court order, to collect on a judgment as provided in Section
872 [35A-4-314](#).

873 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
874 with the exception of Subsections (5)(a), (g), and (o), may be made if:

875 (a) the division determines that the disclosure will not have a negative effect on:

876 (i) the willingness of employers to report wage and employment information; or

877 (ii) the willingness of individuals to file claims for unemployment benefits; and

878 (b) the agency enters into a written agreement with the division in accordance with
879 rules made by the department.

880 (7) (a) The employees of a division of the department other than the Workforce
881 Research and Analysis Division and the Unemployment Insurance Division or an agency
882 receiving private information from the division under this chapter are subject to the same
883 requirements of privacy and confidentiality and to the same penalties for misuse or improper
884 disclosure of the information as employees of the division.

885 (b) Use of private information obtained from the department by a person or for a
886 purpose other than one authorized in Subsection (4) or (5) violates [~~Subsection 76-8-1301(4)~~]
887 Section [76-8-1304](#).

888 Section 8. Section **53-10-403** is amended to read:

889 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

890 (1) Sections [53-10-403.6](#), [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to
891 any person who:

892 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

893 (2)(a) or (b) on or after July 1, 2002;

894 (b) has pled guilty to or has been convicted by any other state or by the United States
895 government of an offense which if committed in this state would be punishable as one or more
896 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

897 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
898 offense under Subsection (2)(c);

899 (d) has been booked:

900 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
901 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

902 (ii) on or after January 1, 2015, for any felony offense; or

903 (e) is a minor under Subsection (3).

904 (2) Offenses referred to in Subsection (1) are:

905 (a) any felony or class A misdemeanor under the Utah Code;

906 (b) any offense under Subsection (2)(a):

907 (i) for which the court enters a judgment for conviction to a lower degree of offense
908 under Section 76-3-402; or

909 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
910 defined in Section 77-2a-1; or

911 (c) (i) any violent felony as defined in Section 53-10-403.5;

912 (ii) sale or use of body parts, Section 26B-8-315;

913 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

914 (iv) operating a motor vehicle with any amount of a controlled substance in an
915 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
916 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

917 (v) a felony violation of enticing a minor, Section 76-4-401;

918 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

919 (vii) a felony violation of propelling a substance or object at a correctional officer, a
920 peace officer, or an employee or a volunteer, including health care providers, Section
921 76-5-102.6;

922 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

923 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
924 smuggling, Section 76-5-310.1;

- 925 (x) a felony violation of unlawful sexual activity with a minor, Section [76-5-401](#);
- 926 (xi) a felony violation of sexual abuse of a minor, Section [76-5-401.1](#);
- 927 (xii) unlawful sexual contact with a 16 or 17-year old, Section [76-5-401.2](#);
- 928 (xiii) sale of a child, Section [76-7-203](#);
- 929 (xiv) aggravated escape, [~~Subsection 76-8-309(2)~~] Section [76-8-309.1](#);
- 930 (xv) a felony violation of [~~assault on an elected official~~] threatened or attempted assault
931 on an elected official, Section [~~76-8-315~~] [76-8-313](#);
- 932 (xvi) [~~influencing, impeding, or retaliating against a judge or member of the Board of~~
933 ~~Pardons and Parole~~] threat with intent to impede, intimidate, interfere, or retaliate against a
934 judge or a member of the Board of Pardons and Parole or acting against a family member of a
935 judge or a member of the Board of Pardons and Parole, Section [76-8-316](#);
- 936 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or
937 a member of the Board of Pardons and Parole or acting against a family member of a judge or a
938 member of the Board of Pardons and Parole, Section [76-8-316.2](#);
- 939 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate
940 against a judge or a member of the Board of Pardons and Parole or acting against a family
941 member of a judge or a member of the Board of Pardons and Parole, Section [76-8-316.4](#);
- 942 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against
943 a judge or a member of the Board of Pardons and Parole or acting against a family member of a
944 judge or a member of the Board of Pardons and Parole, Section [76-8-316.6](#);
- 945 [~~(xvii)~~] (xx) advocating criminal syndicalism or sabotage, Section [76-8-902](#);
- 946 [~~(xviii)~~] (xxi) [~~assembly~~] assembling for advocating criminal syndicalism or sabotage,
947 Section [76-8-903](#);
- 948 [~~(xix)~~] (xxii) a felony violation of sexual battery, Section [76-9-702.1](#);
- 949 [~~(xx)~~] (xxiii) a felony violation of lewdness involving a child, Section [76-9-702.5](#);
- 950 [~~(xxi)~~] (xxiv) a felony violation of abuse or desecration of a dead human body, Section
951 [76-9-704](#);
- 952 [~~(xxii)~~] (xxv) manufacture, possession, sale, or use of a weapon of mass destruction,
953 Section [76-10-402](#);
- 954 [~~(xxiii)~~] (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass
955 destruction, Section [76-10-403](#);

956 [~~(xxiv)~~] (xxvii) possession of a concealed firearm in the commission of a violent
957 felony, Subsection 76-10-504(4);
958 [~~(xxv)~~] (xxviii) assault with the intent to commit bus hijacking with a dangerous
959 weapon, Subsection 76-10-1504(3);
960 [~~(xxvi)~~] (xxix) commercial obstruction, Subsection 76-10-2402(2);
961 [~~(xxvii)~~] (xxx) a felony violation of failure to register as a sex or kidnap offender,
962 Section 77-41-107;
963 [~~(xxviii)~~] (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or
964 [~~(xxix)~~] (xxxii) violation of condition for release after arrest under Section 78B-7-802.

965 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated
966 by the juvenile court due to the commission of any offense described in Subsection (2), and
967 who:

968 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
969 court on or after July 1, 2002; or

970 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or
971 after July 1, 2002, for an offense under Subsection (2).

972 Section 9. Section **53B-3-103** is amended to read:

973 **53B-3-103. Power of board to adopt rules and enact regulations.**

974 (1) The board may enact regulations governing the conduct of university and college
975 students, faculty, and employees.

976 (2) (a) The board may:

977 (i) enact and authorize higher education institutions to enact traffic, parking, and
978 related regulations governing all individuals on campuses and other facilities owned or
979 controlled by the institutions or the board; and

980 (ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at
981 higher education institutions:

982 (A) authorize higher education institutions to establish no more than one secure area at
983 each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise
984 restrict the lawful possession or carrying of firearms; and

985 (B) authorize a higher education institution to make a rule that allows a resident of a
986 dormitory located at the institution to request only roommates who are not licensed to carry a

987 concealed firearm under Section [53-5-704](#) or [53-5-705](#).

988 (b) In addition to the requirements and penalty prescribed in [Subsections
989 ~~[76-8-311.1\(3\), \(4\), \(5\), and \(6\)](#)~~] [Sections 76-8-311.1 and 76-8-311.2](#), the board shall make rules
990 to ensure that:

991 (i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used
992 to detect firearms, ammunition, or dangerous weapons contained in the personal property of or
993 on the person of any individual attempting to enter a secure area hearing room;

994 (ii) an individual required or requested to attend a hearing in a secure area hearing
995 room is notified in writing of the requirements related to entering a secured area hearing room
996 under this Subsection (2)(b) and Section [76-8-311.1](#);

997 (iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area
998 hearing room is in effect only during the time the secure area hearing room is in use for
999 hearings and for a reasonable time before and after its use; and

1000 (iv) reasonable space limitations are applied to the secure area hearing room as
1001 warranted by the number of individuals involved in a typical hearing.

1002 (c) (i) The board may not require proof of vaccination as a condition for enrollment or
1003 attendance within the system of higher education unless the board allows for the following
1004 exemptions:

1005 (A) a medical exemption if the student provides to the institution a statement that the
1006 claimed exemption is for a medical reason; and

1007 (B) a personal exemption if the student provides to the institution a statement that the
1008 claimed exemption is for a personal or religious belief.

1009 (ii) An institution that offers both remote and in-person learning options may not deny
1010 a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to
1011 participate in an in-person learning option based upon the student's vaccination status.

1012 (iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting
1013 at an institution of higher education.

1014 (iv) Nothing in this section restricts a state or local health department from acting
1015 under applicable law to contain the spread of an infectious disease.

1016 (d) (i) For purposes of this Subsection (2)(d), "face covering" means the same as that
1017 term is defined in Section [53G-9-210](#).

1018 (ii) The board may not require an individual to wear a face covering as a condition of
1019 attendance for in-person instruction, institution-sponsored athletics, institution-sponsored
1020 extracurricular activities, in dormitories, or in any other place on a campus of an institution
1021 within the system of higher education at any time after the end of the spring semester in 2021.

1022 (iii) Subsection (2)(d)(ii) does not apply to an individual in a medical setting at an
1023 institution of higher education.

1024 (3) The board shall enact regulations that require all testimony be given under oath
1025 during an employee grievance hearing for a non-faculty employee of an institution of higher
1026 education if the grievance hearing relates to the non-faculty employee's:

1027 (a) demotion; or

1028 (b) termination.

1029 (4) The board and institutions may enforce these rules and regulations in any
1030 reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of
1031 which may be by withholding from money owed the violator, the imposition of probation,
1032 suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue
1033 certificates, degrees, and diplomas, through judicial process or any reasonable combination of
1034 these alternatives.

1035 Section 10. Section **53B-20-107** is enacted to read:

1036 **53B-20-107. Powers of chief administrative officer to order individuals off an**
1037 **institution of higher education's property.**

1038 (1) As used in this section:

1039 (a) "Chief administrative officer" means the president of an institution or an individual
1040 designated by the president.

1041 (b) "Institution of higher education" means:

1042 (i) a state institution of higher education as defined in Section [53B-3-102](#); or

1043 (ii) a private institution of higher education in the state accredited by a regional or
1044 national accrediting agency recognized by the United States Department of Education.

1045 (2) It is the purpose of this section to:

1046 (a) supplement and clarify the power vested in the governing board of each institution
1047 of higher education; and

1048 (b) regulate, conduct, and enforce law and order on property owned, operated, or

1049 controlled by each institution of higher education.

1050 (3) A chief administrative officer may order an individual to leave property that is
1051 owned, operated, or controlled by an institution of higher education if:

1052 (a) the individual acts, or if the chief administrative officer has reasonable cause to
1053 believe that the individual intends to act, to:

1054 (i) cause injury to an individual;

1055 (ii) cause damage to property;

1056 (iii) commit a crime;

1057 (iv) interfere with the peaceful conduct of the activities of the institution of higher
1058 education;

1059 (v) violate a rule or regulation of the institution of higher education if that rule or
1060 regulation is not in conflict with state law; or

1061 (vi) disrupt the institution of higher education, the institution's pupils, or the institution
1062 of higher education's activities; or

1063 (b) the individual is reckless as to whether the individual's actions will cause fear for
1064 the safety of another individual.

1065 (4) (a) If a law enforcement agency or security department of an institution of higher
1066 education lacks sufficient manpower to deal effectively with a condition of unrest existing or
1067 developing on a campus or related facility of the institution of higher education in the judgment
1068 of the chief administrative officer, the chief administrative officer may call for assistance from
1069 the county sheriff of the county, a city law enforcement agency, or the Department of Public
1070 Safety.

1071 (b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law
1072 enforcement agency, or the Department of Public Safety must render all necessary assistance
1073 without expense to the institution of higher education.

1074 (c) All personnel while rendering assistance to the institution of higher education shall
1075 serve under the general direction of the chief administrative officer.

1076 (5) Nothing in this section shall limit:

1077 (a) the right or duty of a local law enforcement agency to enforce the law which the
1078 local law enforcement agency had prior to this enactment; or

1079 (b) the right of a state or local law enforcement agency to enforce the laws of this state.

1080 Section 11. Section **59-1-401** is amended to read:

1081 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
1082 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
1083 **interest.**

1084 (1) As used in this section:

1085 (a) "Tax, fee, or charge" means:

1086 (i) a tax, fee, or charge the commission administers under:

1087 (A) this title;

1088 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1089 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1090 (D) Section [19-6-410.5](#);

1091 (E) Section [19-6-714](#);

1092 (F) Section [19-6-805](#);

1093 (G) Section [34A-2-202](#);

1094 (H) Section [40-6-14](#); or

1095 (I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

1096 or

1097 (ii) another amount that by statute is subject to a penalty imposed under this section.

1098 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

1099 (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section [41-1a-301](#);

1100 (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

1101 (iii) Chapter 2, Property Tax Act, except for Section [59-2-1309](#);

1102 (iv) Chapter 3, Tax Equivalent Property Act; or

1103 (v) Chapter 4, Privilege Tax.

1104 (2) (a) The due date for filing a return is:

1105 (i) if the person filing the return is not allowed by law an extension of time for filing
1106 the return, the day on which the return is due as provided by law; or

1107 (ii) if the person filing the return is allowed by law an extension of time for filing the
1108 return, the earlier of:

1109 (A) the date the person files the return; or

1110 (B) the last day of that extension of time as allowed by law.

1111 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
1112 return after the due date described in Subsection (2)(a).

1113 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

1114 (i) \$20; or

1115 (ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the return is filed no
1116 later than five days after the due date described in Subsection (2)(a);

1117 (B) 5% of the unpaid tax, fee, or charge due on the return if the return is filed more
1118 than five days after the due date but no later than 15 days after the due date described in
1119 Subsection (2)(a); or

1120 (C) 10% of the unpaid tax, fee, or charge due on the return if the return is filed more
1121 than 15 days after the due date described in Subsection (2)(a).

1122 (d) This Subsection (2) does not apply to:

1123 (i) an amended return; or

1124 (ii) a return with no tax due.

1125 (3) (a) Except as provided in Subsection (15), a person is subject to a penalty for
1126 failure to pay a tax, fee, or charge if:

1127 (i) the person files a return on or before the due date for filing a return described in
1128 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
1129 date;

1130 (ii) the person:

1131 (A) is subject to a penalty under Subsection (2)(b); and

1132 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
1133 due date for filing a return described in Subsection (2)(a);

1134 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

1135 (B) the commission estimates an amount of tax due for that person in accordance with
1136 Subsection 59-1-1406(2);

1137 (iv) the person:

1138 (A) is mailed a notice of deficiency; and

1139 (B) within a 30-day period after the day on which the notice of deficiency described in
1140 Subsection (3)(a)(iv)(A) is mailed:

1141 (I) does not file a petition for redetermination or a request for agency action; and

1142 (II) fails to pay the tax, fee, or charge due on a return;
1143 (v) (A) the commission:
1144 (I) issues an order constituting final agency action resulting from a timely filed petition
1145 for redetermination or a timely filed request for agency action; or
1146 (II) is considered to have denied a request for reconsideration under Subsection
1147 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
1148 request for agency action; and
1149 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
1150 after the date the commission:
1151 (I) issues the order constituting final agency action described in Subsection
1152 (3)(a)(v)(A)(I); or
1153 (II) is considered to have denied the request for reconsideration described in
1154 Subsection (3)(a)(v)(A)(II); or
1155 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
1156 of a final judicial decision resulting from a timely filed petition for judicial review.
1157 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
1158 (i) \$20; or
1159 (ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the activated tax, fee,
1160 or charge due on the return is paid no later than five days after the due date for filing a return
1161 described in Subsection (2)(a);
1162 (B) 5% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or
1163 charge due on the return is paid more than five days after the due date for filing a return
1164 described in Subsection (2)(a) but no later than 15 days after that due date; or
1165 (C) 10% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or
1166 charge due on the return is paid more than 15 days after the due date for filing a return
1167 described in Subsection (2)(a).
1168 (4) (a) In the case of any underpayment of estimated tax or quarterly installments
1169 required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a
1170 penalty in an amount determined by applying the interest rate provided under Section 59-1-402
1171 plus four percentage points to the amount of the underpayment for the period of the
1172 underpayment.

1173 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
1174 excess of the required installment over the amount, if any, of the installment paid on or before
1175 the due date for the installment.

1176 (ii) The period of the underpayment shall run from the due date for the installment to
1177 whichever of the following dates is the earlier:

1178 (A) the original due date of the tax return, without extensions, for the taxable year; or

1179 (B) with respect to any portion of the underpayment, the date on which that portion is
1180 paid.

1181 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
1182 against unpaid required installments in the order in which the installments are required to be
1183 paid.

1184 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
1185 person allowed by law an extension of time for filing a corporate franchise or income tax return
1186 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
1187 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
1188 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
1189 including the extension of time, the person fails to pay:

1190 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
1191 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

1192 (ii) for a person filing an individual income tax return under Chapter 10, Individual
1193 Income Tax Act, the payment required by Subsection 59-10-516(2).

1194 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
1195 extension of time for filing the return is an amount equal to 2% of the tax due on the return,
1196 unpaid as of the day on which the return is due as provided by law.

1197 (6) If a person does not file a return within an extension of time allowed by Section
1198 59-7-505 or 59-10-516, the person:

1199 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

1200 (b) is subject to a penalty in an amount equal to the sum of:

1201 (i) a late file penalty in an amount equal to the greater of:

1202 (A) \$20; or

1203 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as

1204 provided by law, not including the extension of time; and

1205 (ii) a late pay penalty in an amount equal to the greater of:

1206 (A) \$20; or

1207 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
1208 due as provided by law, not including the extension of time.

1209 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
1210 in this Subsection (7)(a).

1211 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
1212 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
1213 is due to negligence.

1214 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
1215 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
1216 underpayment.

1217 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
1218 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

1219 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
1220 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

1221 (b) If the commission determines that a person is liable for a penalty imposed under
1222 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed
1223 penalty.

1224 (i) The notice of proposed penalty shall:

1225 (A) set forth the basis of the assessment; and

1226 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

1227 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
1228 penalty is proposed may:

1229 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

1230 or

1231 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

1232 (iii) A person against whom a penalty is proposed in accordance with this Subsection
1233 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
1234 the commission.

1235 (iv) (A) If the commission determines that a person is liable for a penalty under this
1236 Subsection (7), the commission shall assess the penalty and give notice and demand for
1237 payment.

1238 (B) The commission shall mail the notice and demand for payment described in
1239 Subsection (7)(b)(iv)(A):

1240 (I) to the person's last-known address; and

1241 (II) in accordance with Section 59-1-1404.

1242 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
1243 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

1244 (i) a court of competent jurisdiction issues a final unappealable judgment or order
1245 determining that:

1246 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
1247 or is a seller required to pay or collect and remit sales and use taxes under Subsection
1248 59-12-107(2)(b) or (2)(c); and

1249 (B) the commission or a county, city, or town may require the seller to collect a tax
1250 under Subsections 59-12-103(2)(a) through (e); or

1251 (ii) the commission issues a final unappealable administrative order determining that:

1252 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
1253 or is a seller required to pay or collect and remit sales and use taxes under Subsection
1254 59-12-107(2)(b) or (2)(c); and

1255 (B) the commission or a county, city, or town may require the seller to collect a tax
1256 under Subsections 59-12-103(2)(a) through (e).

1257 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
1258 subject to the penalty under Subsection (7)(a)(ii) if:

1259 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
1260 determining that:

1261 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
1262 or is a seller required to pay or collect and remit sales and use taxes under Subsection
1263 59-12-107(2)(b) or (2)(c); and

1264 (II) the commission or a county, city, or town may require the seller to collect a tax
1265 under Subsections 59-12-103(2)(a) through (e); or

1266 (B) the commission issues a final unappealable administrative order determining that:

1267 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

1268 or is a seller required to pay or collect and remit sales and use taxes under Subsection

1269 59-12-107(2)(b) or (2)(c); and

1270 (II) the commission or a county, city, or town may require the seller to collect a tax

1271 under Subsections 59-12-103(2)(a) through (e); and

1272 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

1273 nonfrivolous argument for the extension, modification, or reversal of existing law or the

1274 establishment of new law.

1275 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an

1276 information return, information report, or a complete supporting schedule is \$50 for each

1277 information return, information report, or supporting schedule up to a maximum of \$1,000.

1278 (b) If an employer is subject to a penalty under Subsection (13), the employer may not

1279 be subject to a penalty under Subsection (8)(a).

1280 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a

1281 return in accordance with Subsection 59-10-406(3) on or before the due date described in

1282 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this

1283 Subsection (8) unless the return is filed more than 14 days after the due date described in

1284 Subsection 59-10-406(3)(b)(ii).

1285 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay

1286 or impede administration of a law relating to a tax, fee, or charge and files a purported return

1287 that fails to contain information from which the correctness of reported tax, fee, or charge

1288 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is

1289 substantially incorrect, the penalty is \$500.

1290 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by

1291 Subsection 59-12-108(1)(a):

1292 (i) is subject to a penalty described in Subsection (2); and

1293 (ii) may not retain the percentage of sales and use taxes that would otherwise be

1294 allowable under Subsection 59-12-108(2).

1295 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as

1296 required by Subsection 59-12-108(1)(a)(ii)(B):

- 1297 (i) is subject to a penalty described in Subsection (2); and
1298 (ii) may not retain the percentage of sales and use taxes that would otherwise be
1299 allowable under Subsection 59-12-108(2).
- 1300 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
1301 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
1302 following documents:
1303 (A) a return;
1304 (B) an affidavit;
1305 (C) a claim; or
1306 (D) a document similar to Subsections (11)(a)(i)(A) through (C);
1307 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
1308 will be used in connection with any material matter administered by the commission; and
1309 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
1310 with any material matter administered by the commission, would result in an understatement of
1311 another person's liability for a tax, fee, or charge.
- 1312 (b) The following acts apply to Subsection (11)(a)(i):
1313 (i) preparing any portion of a document described in Subsection (11)(a)(i);
1314 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
1315 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
1316 (iv) advising in the preparation or presentation of any portion of a document described
1317 in Subsection (11)(a)(i);
1318 (v) aiding in the preparation or presentation of any portion of a document described in
1319 Subsection (11)(a)(i);
1320 (vi) assisting in the preparation or presentation of any portion of a document described
1321 in Subsection (11)(a)(i); or
1322 (vii) counseling in the preparation or presentation of any portion of a document
1323 described in Subsection (11)(a)(i).
- 1324 (c) For purposes of Subsection (11)(a), the penalty:
1325 (i) shall be imposed by the commission;
1326 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
1327 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

1328 (iii) is in addition to any other penalty provided by law.

1329 (d) The commission may seek a court order to enjoin a person from engaging in
1330 conduct that is subject to a penalty under this Subsection (11).

1331 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1332 commission may make rules prescribing the documents that are similar to Subsections
1333 (11)(a)(i)(A) through (C).

1334 (12) (a) [~~As provided in Section 76-8-1101, criminal~~] Criminal offenses and penalties
1335 are [as] provided in Subsections (12)(b) through (e).

1336 (b) (i) A person who is required by this title or any laws the commission administers or
1337 regulates to register with or obtain a license or permit from the commission, who operates
1338 without having registered or secured a license or permit, or who operates when the registration,
1339 license, or permit is expired or not current, is guilty of a class B misdemeanor.

1340 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
1341 penalty may not:

1342 (A) be less than \$500; or

1343 (B) exceed \$1,000.

1344 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,
1345 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within
1346 the time required by law or to supply information within the time required by law, or who
1347 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false
1348 or fraudulent information, is guilty of a third degree felony.

1349 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
1350 penalty may not:

1351 (A) be less than \$1,000; or

1352 (B) exceed \$5,000.

1353 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or
1354 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,
1355 guilty of a second degree felony.

1356 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
1357 penalty may not:

1358 (A) be less than \$1,500; or

- 1359 (B) exceed \$25,000.
- 1360 (e) (i) A person is guilty of a second degree felony if that person commits an act:
- 1361 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
- 1362 documents:
- 1363 (I) a return;
- 1364 (II) an affidavit;
- 1365 (III) a claim; or
- 1366 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 1367 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 1368 Subsection (12)(e)(i)(A):
- 1369 (I) is false or fraudulent as to any material matter; and
- 1370 (II) could be used in connection with any material matter administered by the
- 1371 commission.
- 1372 (ii) The following acts apply to Subsection (12)(e)(i):
- 1373 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 1374 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 1375 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 1376 (D) advising in the preparation or presentation of any portion of a document described
- 1377 in Subsection (12)(e)(i)(A);
- 1378 (E) aiding in the preparation or presentation of any portion of a document described in
- 1379 Subsection (12)(e)(i)(A);
- 1380 (F) assisting in the preparation or presentation of any portion of a document described
- 1381 in Subsection (12)(e)(i)(A); or
- 1382 (G) counseling in the preparation or presentation of any portion of a document
- 1383 described in Subsection (12)(e)(i)(A).
- 1384 (iii) This Subsection (12)(e) applies:
- 1385 (A) regardless of whether the person for which the document described in Subsection
- 1386 (12)(e)(i)(A) is prepared or presented:
- 1387 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 1388 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 1389 (B) in addition to any other penalty provided by law.

1390 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
1391 penalty may not:

1392 (A) be less than \$1,500; or

1393 (B) exceed \$25,000.

1394 (v) The commission may seek a court order to enjoin a person from engaging in
1395 conduct that is subject to a penalty under this Subsection (12)(e).

1396 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1397 the commission may make rules prescribing the documents that are similar to Subsections
1398 (12)(e)(i)(A)(I) through (III).

1399 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
1400 the later of six years:

1401 (i) from the date the tax should have been remitted; or

1402 (ii) after the day on which the person commits the criminal offense.

1403 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with
1404 the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty
1405 described in Subsection (13)(b) if the employer:

1406 (i) fails to file the form with the commission in an electronic format approved by the
1407 commission as required by Subsection 59-10-406(8) or (9);

1408 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8)
1409 or (9);

1410 (iii) fails to provide accurate information on the form; or

1411 (iv) fails to provide all of the information required by the Internal Revenue Service to
1412 be contained on the form.

1413 (b) For purposes of Subsection (13)(a), the penalty is:

1414 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the
1415 form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date
1416 provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date
1417 provided in Subsection 59-10-406(8) or (9);

1418 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the
1419 form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date
1420 provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

1421 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:
1422 (A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or
1423 (B) fails to file the form.

1424 (14) Upon making a record of the commission's actions, and upon reasonable cause
1425 shown, the commission may waive, reduce, or compromise any of the penalties or interest
1426 imposed under this part.

1427 (15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a
1428 penalty as described in Subsection (3) except that the penalty shall be:

1429 (a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but
1430 does not pay some or all of the tax reported; and

1431 (b) calculated based on the difference between the amount of tax reported and the
1432 amount of tax paid.

1433 Section 12. Section 63G-12-402 is amended to read:

1434 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**
1435 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

1436 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an
1437 agency or political subdivision of the state shall verify the lawful presence in the United States
1438 of an individual at least 18 years old who applies for:

1439 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

1440 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
1441 agency or political subdivision of this state.

1442 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
1443 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
1444 Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United
1445 States of each individual who:

1446 (i) owns an interest in the contractor that is an unincorporated entity; and

1447 (ii) engages, or will engage, in a construction trade in Utah as an owner of the
1448 contractor described in Subsection (1)(b)(i).

1449 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or
1450 national origin.

1451 (3) Verification of lawful presence under this section is not required for:

- 1452 (a) any purpose for which lawful presence in the United States is not restricted by law,
1453 ordinance, or regulation;
- 1454 (b) assistance for health care items and services that:
- 1455 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
1456 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
- 1457 (ii) are not related to an organ transplant procedure;
- 1458 (c) short-term, noncash, in-kind emergency disaster relief;
- 1459 (d) public health assistance for immunizations with respect to immunizable diseases
1460 and for testing and treatment of symptoms of communicable diseases whether or not the
1461 symptoms are caused by the communicable disease;
- 1462 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
1463 intervention, and short-term shelter, specified by the United States Attorney General, in the
1464 sole and unreviewable discretion of the United States Attorney General after consultation with
1465 appropriate federal agencies and departments, that:
- 1466 (i) deliver in-kind services at the community level, including through public or private
1467 nonprofit agencies;
- 1468 (ii) do not condition the provision of assistance, the amount of assistance provided, or
1469 the cost of assistance provided on the income or resources of the individual recipient; and
- 1470 (iii) are necessary for the protection of life or safety;
- 1471 (f) the exemption for paying the nonresident portion of total tuition as set forth in
1472 Section [53B-8-106](#);
- 1473 (g) an applicant for a license under Section [61-1-4](#), if the applicant:
- 1474 (i) is registered with the Financial Industry Regulatory Authority; and
- 1475 (ii) files an application with the state Division of Securities through the Central
1476 Registration Depository;
- 1477 (h) a state public benefit to be given to an individual under Title 49, Utah State
1478 Retirement and Insurance Benefit Act;
- 1479 (i) a home loan that will be insured, guaranteed, or purchased by:
- 1480 (i) the Federal Housing Administration, the Veterans Administration, or any other
1481 federal agency; or
- 1482 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

1483 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
1484 home loan that does not require verification under Subsection (3)(i);

1485 (k) an applicant for a license issued by the Department of Commerce or individual
1486 described in Subsection (1)(b), if the applicant or individual provides the Department of
1487 Commerce:

1488 (i) certification, under penalty of perjury, that the applicant or individual is:

1489 (A) a United States citizen;

1490 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

1491 (C) lawfully present in the United States; and

1492 (ii) (A) the number assigned to a driver license or identification card issued under Title
1493 53, Chapter 3, Uniform Driver License Act; or

1494 (B) the number assigned to a driver license or identification card issued by a state other
1495 than Utah if, as part of issuing the driver license or identification card, the state verifies an
1496 individual's lawful presence in the United States; and

1497 (l) an applicant for:

1498 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'
1499 Scholarship Program;

1500 (ii) a New Century scholarship described in Section 53B-8-105;

1501 (iii) a promise grant described in Section 53B-13a-104; or

1502 (iv) a scholarship:

1503 (A) for an individual who is a graduate of a high school located within Utah; and

1504 (B) administered by an institution of higher education as defined in Section 53B-2-101.

1505 (4) (a) An agency or political subdivision required to verify the lawful presence in the
1506 United States of an applicant under this section shall require the applicant to certify under
1507 penalty of perjury that:

1508 (i) the applicant is a United States citizen; or

1509 (ii) the applicant is:

1510 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

1511 (B) lawfully present in the United States.

1512 (b) The certificate required under this Subsection (4) shall include a statement advising
1513 the signer that providing false information subjects the signer to penalties for perjury.

1514 (5) An agency or political subdivision shall verify a certification required under
1515 Subsection (4)(a)(ii) through the federal SAVE program.

1516 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or
1517 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject
1518 to the criminal penalties applicable in this state for:

1519 (i) making a written false statement under Section [76-8-504](#); and

1520 (ii) fraudulently obtaining:

1521 (A) public assistance program benefits under [~~Sections [76-8-1205](#) and [76-8-1206](#)~~]

1522 [Section 76-8-1203.1](#); or

1523 (B) unemployment compensation under Section [76-8-1301](#), [76-8-1302](#), [76-8-1303](#), or
1524 [76-8-1304](#).

1525 (b) If the certification constitutes a false claim of United States citizenship under 18
1526 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
1527 States Attorney General for the applicable district based upon the venue in which the
1528 application was made.

1529 (c) If an agency or political subdivision receives verification that a person making an
1530 application for a benefit, service, or license is not a qualified alien, the agency or political
1531 subdivision shall provide the information to the Office of the Attorney General unless
1532 prohibited by federal mandate.

1533 (7) An agency or political subdivision may adopt variations to the requirements of this
1534 section that:

1535 (a) clearly improve the efficiency of or reduce delay in the verification process; or

1536 (b) provide for adjudication of unique individual circumstances where the verification
1537 procedures in this section would impose an unusual hardship on a legal resident of Utah.

1538 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,
1539 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

1540 (9) A state agency or department that administers a program of state or local public
1541 benefits shall:

1542 (a) provide an annual report to the governor, the president of the Senate, and the
1543 speaker of the House regarding its compliance with this section; and

1544 (b) (i) monitor the federal SAVE program for application verification errors and

1545 significant delays;

1546 (ii) provide an annual report on the errors and delays to ensure that the application of
1547 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident
1548 of the state; and

1549 (iii) report delays and errors in the federal SAVE program to the United States
1550 Department of Homeland Security.

1551 Section 13. Section **64-13-14.5** is amended to read:

1552 **64-13-14.5. Limits of confinement place -- Release status -- Work release.**

1553 (1) The department may extend the limits of the place of confinement of an inmate
1554 when, as established by department policies and procedures, there is cause to believe the
1555 inmate will honor the trust, by authorizing the inmate under prescribed conditions:

1556 (a) to leave temporarily for purposes specified by department policies and procedures
1557 to visit specifically designated places for a period not to exceed 30 days;

1558 (b) to participate in a voluntary training program in the community while housed at a
1559 correctional facility or to work at paid employment;

1560 (c) to be housed in a nonsecure community correctional center operated by the
1561 department; or

1562 (d) to be housed in any other facility under contract with the department.

1563 (2) The department shall establish rules governing offenders on release status. A copy
1564 of the rules shall be furnished to the offender and to any employer or other person participating
1565 in the offender's release program. Any employer or other participating person shall agree in
1566 writing to abide by the rules and to notify the department of the offender's discharge or other
1567 release from a release program activity, or of any violation of the rules governing release status.

1568 (3) The willful failure of an inmate to remain within the extended limits of his
1569 confinement or to return within the time prescribed to an institution or facility designated by
1570 the department is an escape from custody.

1571 (4) If an offender is arrested for the commission of a crime, the arresting authority shall
1572 immediately notify the department of the arrest.

1573 (5) The department may impose appropriate sanctions pursuant to Section [64-13-21](#)
1574 upon offenders who violate guidelines established by the Utah Sentencing Commission,
1575 including prosecution for escape under Section [76-8-309](#) or [76-8-309.1](#) and for unauthorized

1576 absence.

1577 (6) An inmate who is housed at a nonsecure correctional facility and on work release
1578 may not be required to work for less than the current federally established minimum wage, or
1579 under substandard working conditions.

1580 Section 14. Section **76-1-301** is amended to read:

1581 **76-1-301. Offenses for which prosecution may be commenced at any time.**

1582 (1) As used in this section:

1583 (a) "Aggravating offense" means any offense incident to which a homicide was
1584 committed as described in Subsection [76-5-202\(2\)\(a\)\(iv\)](#) or (v) or Subsection [76-5-202\(2\)\(b\)](#).

1585 (b) "Predicate offense" means an offense described in Subsection [76-5-203\(1\)\(a\)](#) if a
1586 person other than a party as defined in Section [76-2-202](#) was killed in the course of the
1587 commission, attempted commission, or immediate flight from the commission or attempted
1588 commission of the offense.

1589 (2) Notwithstanding any other provisions of this code, prosecution for the following
1590 offenses may be commenced at any time:

1591 (a) an offense classified as a capital felony under Section [76-3-103](#);

1592 (b) aggravated murder under Section [76-5-202](#);

1593 (c) murder under Section [76-5-203](#);

1594 (d) manslaughter under Section [76-5-205](#);

1595 (e) child abuse homicide under Section [76-5-208](#);

1596 (f) aggravated kidnapping under Section [76-5-302](#);

1597 (g) child kidnapping under Section [76-5-301.1](#);

1598 (h) rape under Section [76-5-402](#);

1599 (i) rape of a child under Section [76-5-402.1](#);

1600 (j) object rape under Section [76-5-402.2](#);

1601 (k) object rape of a child under Section [76-5-402.3](#);

1602 (l) forcible sodomy under Section [76-5-403](#);

1603 (m) sodomy on a child under Section [76-5-403.1](#);

1604 (n) sexual abuse of a child under Section [76-5-404.1](#);

1605 (o) aggravated sexual abuse of a child under Section [76-5-404.3](#);

1606 (p) aggravated sexual assault under Section [76-5-405](#);

1607 (q) any predicate offense to a murder or aggravating offense to an aggravated murder;

1608 (r) aggravated human trafficking [~~or aggravated human smuggling in violation of~~]

1609 under Section 76-5-310;

1610 (s) aggravated human smuggling under Section 76-5-310.1;

1611 [~~(s)~~] (t) aggravated exploitation of prostitution involving a child[;] under Section

1612 76-10-1306; or

1613 [~~(t)~~] (u) human trafficking of a child[;] under Section 76-5-308.5.

1614 Section 15. Section 76-3-203.1 is amended to read:

1615 **76-3-203.1. Offenses committed in concert with three or more persons or in**
1616 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

1617 (1) As used in this section:

1618 (a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

1619 (b) "In concert with three or more persons" means:

1620 (i) the defendant was aided or encouraged by at least three other persons in committing
1621 the offense and was aware of this aid or encouragement; and

1622 (ii) each of the other persons:

1623 (A) was physically present; and

1624 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).

1625 (c) "In concert with three or more persons" means, regarding intent:

1626 (i) other persons participating as parties need not have the intent to engage in the same
1627 offense or degree of offense as the defendant; and

1628 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
1629 minor were an adult.

1630 (2) A person who commits any offense in accordance with this section is subject to an
1631 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a
1632 reasonable doubt that the person acted:

1633 (a) in concert with three or more persons;

1634 (b) for the benefit of, at the direction of, or in association with any criminal street gang
1635 as defined in Section 76-9-802; or

1636 (c) to gain recognition, acceptance, membership, or increased status with a criminal
1637 street gang as defined in Section 76-9-802.

1638 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
1639 be subscribed upon the information or indictment notice that the defendant is subject to the
1640 enhanced penalties provided under this section.

1641 (4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

1642 (i) for a class B misdemeanor, as a class A misdemeanor; and

1643 (ii) for a class A misdemeanor, as a third degree felony.

1644 (b) The following offenses are subject to Subsection (4)(a):

1645 (i) criminal mischief as described in Section 76-6-106;

1646 (ii) property damage or destruction as described in Section 76-6-106.1; and

1647 (iii) defacement by graffiti as described in Section 76-6-107.

1648 (5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

1649 (i) for a class B misdemeanor, as a class A misdemeanor;

1650 (ii) for a class A misdemeanor, as a third degree felony; and

1651 (iii) for a third degree felony, as a second degree felony.

1652 (b) The following offenses are subject to Subsection (5)(a):

1653 (i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

1654 (ii) any offense of obstructing government operations under Chapter 8, Part 3,

1655 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307,

1656 76-8-308, and 76-8-312;

1657 (iii) tampering with a witness [~~or other violation of~~] under Section 76-8-508;

1658 (iv) retaliation against a witness, victim, or informant, or other violation of Section

1659 76-8-508.3;

1660 (v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

1661 [~~(v)~~] (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section

1662 76-8-509;

1663 [~~(vi)~~] (vii) any weapons offense under Chapter 10, Part 5, Weapons; and

1664 [~~(vii)~~] (viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

1665 (6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

1666 (i) for a class B misdemeanor, as a class A misdemeanor;

1667 (ii) for a class A misdemeanor, as a third degree felony;

1668 (iii) for a third degree felony, as a second degree felony; and

- 1669 (iv) for a second degree felony, as a first degree felony.
- 1670 (b) The following offenses are subject to Subsection (6)(a):
- 1671 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 1672 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 1673 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking,
- 1674 and Smuggling;
- 1675 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 1676 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 1677 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 1678 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 1679 (viii) aggravated exploitation of prostitution under Section 76-10-1306.
- 1680 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the
- 1681 individual placed on probation for the higher level of offense.
- 1682 (8) It is not a bar to imposing the enhanced penalties under this section that the persons
- 1683 with whom the actor is alleged to have acted in concert are not identified, apprehended,
- 1684 charged, or convicted, or that any of those persons are charged with or convicted of a different
- 1685 or lesser offense.
- 1686 Section 16. Section 76-3-203.3 is amended to read:
- 1687 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**
- 1688 As used in this section:
- 1689 (1) "Primary offense" means those offenses provided in Subsection (4).
- 1690 (2) (a) A person who commits any primary offense with the intent to intimidate or
- 1691 terrorize another person or with reason to believe that his action would intimidate or terrorize
- 1692 that person is subject to Subsection (2)(b).
- 1693 (b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and
- 1694 (ii) a class B misdemeanor primary offense is a class A misdemeanor.
- 1695 (3) "Intimidate or terrorize" means an act which causes the person to fear for his
- 1696 physical safety or damages the property of that person or another. The act must be
- 1697 accompanied with the intent to cause or has the effect of causing a person to reasonably fear to
- 1698 freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
- 1699 Constitution or laws of the United States.

1700 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

1701 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,
1702 76-5-107, and 76-5-108;

1703 (b) any misdemeanor property destruction offense under Sections 76-6-102 and
1704 76-6-104, and Subsection 76-6-106(2)(a);

1705 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

1706 (d) any misdemeanor theft offense under Section 76-6-412;

1707 (e) any offense of obstructing government operations under Sections 76-8-301,
1708 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

1709 (f) any offense of interfering or intending to interfere with activities of colleges and
1710 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

1711 (g) any misdemeanor offense against public order and decency as defined in Title 76,
1712 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

1713 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic
1714 Communication and Telephone Abuse;

1715 (i) any cruelty to animals offense under Section 76-9-301;

1716 (j) any weapons offense under Section 76-10-506; or

1717 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

1718 (5) This section does not affect or limit any individual's constitutional right to the
1719 lawful expression of free speech or other recognized rights secured by the Constitution or laws
1720 of the state or by the Constitution or laws of the United States.

1721 Section 17. Section 76-3-203.5 is amended to read:

1722 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**

1723 (1) As used in this section:

1724 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
1725 United States, or any district, possession, or territory of the United States for which the
1726 maximum punishment the offender may be subjected to exceeds one year in prison.

1727 (b) "Habitual violent offender" means a person convicted within the state of any violent
1728 felony and who on at least two previous occasions has been convicted of a violent felony and
1729 committed to either prison in Utah or an equivalent correctional institution of another state or
1730 of the United States either at initial sentencing or after revocation of probation.

- 1731 (c) "Violent felony" means:
- 1732 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit
- 1733 any of the following offenses punishable as a felony:
- 1734 (A) ~~[aggravated arson, arson,]~~ arson as described in Section 76-6-102;
- 1735 (B) aggravated arson as described in Section 76-6-103;
- 1736 (C) ~~[knowingly causing a catastrophe,]~~ causing a catastrophe as described in
- 1737 Subsection 76-6-105(3)(a) or (3)(b);
- 1738 (D) ~~[and criminal mischief, Chapter 6, Part 1, Property Destruction]~~ criminal mischief
- 1739 as described in Section 76-6-106;
- 1740 ~~[(B)]~~ (E) assault by prisoner[;] as described in Section 76-5-102.5;
- 1741 ~~[(C)]~~ (F) disarming a police officer[;] as described in Section 76-5-102.8;
- 1742 ~~[(D)]~~ (G) aggravated assault[;] as described in Section 76-5-103;
- 1743 ~~[(E)]~~ (H) aggravated assault by prisoner[;] as described in Section 76-5-103.5;
- 1744 ~~[(F)]~~ (I) mayhem[;] as described in Section 76-5-105;
- 1745 ~~[(G)]~~ (J) stalking[;] as described in Subsection 76-5-106.5(2);
- 1746 ~~[(H)]~~ (K) threat of terrorism[;] as described in Section 76-5-107.3;
- 1747 ~~[(I)]~~ (L) aggravated child abuse[;] as described in Subsection 76-5-109.2(3)(a) or (b);
- 1748 ~~[(J)]~~ (M) commission of domestic violence in the presence of a child[;] as described in
- 1749 Section 76-5-114;
- 1750 ~~[(K)]~~ (N) abuse or neglect of a child with a disability[;] as described in Section
- 1751 76-5-110;
- 1752 ~~[(L)]~~ (O) abuse or exploitation of a vulnerable adult[;] as described in Section
- 1753 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;
- 1754 ~~[(M)]~~ (P) endangerment of a child or vulnerable adult[;] as described in Section
- 1755 76-5-112.5;
- 1756 ~~[(N)]~~ (Q) ~~[criminal homicide offenses under]~~ an offense described in Chapter 5, Part 2,
- 1757 Criminal Homicide;
- 1758 ~~[(O)]~~ (R) ~~[kidnapping,]~~ kidnapping as described in Section 76-5-301;
- 1759 (S) ~~[child kidnapping, and]~~ child kidnapping as described in Section 76-5-301.1;
- 1760 (T) ~~[aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and~~
- 1761 Smuggling] aggravated kidnapping as described in Section 76-5-302;

1762 ~~[(P)]~~ (U) rape~~;~~ as described in Section 76-5-402;

1763 ~~[(Q)]~~ (V) rape of a child~~;~~ as described in Section 76-5-402.1;

1764 ~~[(R)]~~ (W) object rape~~;~~ as described in Section 76-5-402.2;

1765 ~~[(S)]~~ (X) object rape of a child~~;~~ as described in Section 76-5-402.3;

1766 ~~[(T)]~~ (Y) forcible sodomy~~;~~ as described in Section 76-5-403;

1767 ~~[(U)]~~ (Z) sodomy on a child~~;~~ as described in Section 76-5-403.1;

1768 ~~[(V)]~~ (AA) forcible sexual abuse~~;~~ as described in Section 76-5-404;

1769 ~~[(W)]~~ (BB) sexual abuse of a child~~;~~ as described in Section 76-5-404.1~~;~~~~or~~;

1770 (CC) aggravated sexual abuse of a child~~;~~ as described in Section 76-5-404.3;

1771 ~~[(X)]~~ (DD) aggravated sexual assault~~;~~ as described in Section 76-5-405;

1772 ~~[(Y)]~~ (EE) sexual exploitation of a minor~~;~~ as described in Section 76-5b-201;

1773 ~~[(Z)]~~ (FF) aggravated sexual exploitation of a minor~~;~~ as described in Section

1774 76-5b-201.1;

1775 ~~[(AA)]~~ (GG) sexual exploitation of a vulnerable adult~~;~~ as described in Section

1776 76-5b-202;

1777 ~~[(BB)]~~ (HH) ~~[aggravated burglary and burglary of a dwelling under Chapter 6, Part 2,~~

1778 ~~Burglary and Criminal Trespass]~~ burglary as described in Subsection 76-6-202(3)(b);

1779 (II) aggravated burglary as described in Section 76-6-203;

1780 ~~[(CC)]~~ (JJ) ~~[aggravated robbery and robbery under Chapter 6, Part 3, Robbery]~~ robbery

1781 as described in Section 76-6-301;

1782 (KK) aggravated robbery as described in Section 76-6-302;

1783 ~~[(DD)]~~ (LL) theft by extortion ~~[under Section 76-6-406 under the circumstances~~

1784 ~~described in]~~ as described in Subsection 76-6-406(1)(a)(i) or [(ii)] (1)(a)(ii);

1785 ~~[(EE)]~~ (MM) tampering with a witness ~~[under Subsection 76-8-508(1)]~~ as described in

1786 Section 76-8-508;

1787 ~~[(FF)]~~ (NN) retaliation against a witness, victim, or informant ~~[under]~~ as described in

1788 Section 76-8-508.3;

1789 ~~[(GG)]~~ (OO) tampering ~~[with]~~ or retaliating against a juror [under] as described in

1790 Subsection 76-8-508.5(2)(c);

1791 ~~[(HH)]~~ (PP) extortion to dismiss a criminal proceeding ~~[under Section 76-8-509 if by~~

1792 ~~any threat or by use of force theft by extortion has been committed under Section 76-6-406~~

1793 ~~under the circumstances~~ as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);
1794 ~~[(HH)]~~ (QQ) possession, use, or removal of explosive, chemical, or incendiary devices
1795 ~~[under]~~ as described in Subsections 76-10-306(3) through (6);
1796 ~~[(JJ)]~~ (RR) unlawful delivery of explosive, chemical, or incendiary devices ~~[under]~~ as
1797 described in Section 76-10-307;
1798 ~~[(KK)]~~ (SS) purchase or possession of a dangerous weapon or handgun by a restricted
1799 person ~~[under]~~ as described in Section 76-10-503;
1800 ~~[(LL) unlawful discharge of a firearm under Section 76-10-508;]~~
1801 ~~[(MM)]~~ (TT) aggravated exploitation of prostitution ~~[under]~~ as described in Subsection
1802 76-10-1306(1)(a);
1803 ~~[(NN)]~~ (UU) bus hijacking ~~[under]~~ as described in Section 76-10-1504; and
1804 ~~[(OO)]~~ (VV) discharging firearms and hurling missiles ~~[under]~~ as described in Section
1805 76-10-1505; or
1806 (ii) any felony violation of a criminal statute of any other state, the United States, or
1807 any district, possession, or territory of the United States which would constitute a violent
1808 felony as defined in this Subsection (1) if committed in this state.
1809 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the
1810 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender
1811 under this section, the penalty for a:
1812 (a) third degree felony is as if the conviction were for a first degree felony;
1813 (b) second degree felony is as if the conviction were for a first degree felony; or
1814 (c) first degree felony remains the penalty for a first degree penalty except:
1815 (i) the convicted person is not eligible for probation; and
1816 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
1817 habitual violent offender as an aggravating factor in determining the length of incarceration.
1818 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall
1819 provide notice in the information or indictment that the defendant is subject to punishment as a
1820 habitual violent offender under this section. Notice shall include the case number, court, and
1821 date of conviction or commitment of any case relied upon by the prosecution.
1822 (b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant
1823 intends to deny that:

- 1824 (A) the defendant is the person who was convicted or committed;
- 1825 (B) the defendant was represented by counsel or had waived counsel; or
- 1826 (C) the defendant's plea was understandingly or voluntarily entered.
- 1827 (ii) The notice of denial shall be served not later than five days prior to trial and shall
- 1828 state in detail the defendant's contention regarding the previous conviction and commitment.
- 1829 (4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to
- 1830 a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge,
- 1831 of the:
- 1832 (i) defendant's previous convictions for violent felonies, except as otherwise provided
- 1833 in the Utah Rules of Evidence; or
- 1834 (ii) allegation against the defendant of being a habitual violent offender.
- 1835 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
- 1836 being an habitual violent offender by the same jury, if practicable, unless the defendant waives
- 1837 the jury, in which case the allegation shall be tried immediately to the court.
- 1838 (c) (i) Before or at the time of sentencing the trier of fact shall determine if this section
- 1839 applies.
- 1840 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
- 1841 and the defendant shall be afforded an opportunity to present any necessary additional
- 1842 evidence.
- 1843 (iii) Before sentencing under this section, the trier of fact shall determine whether this
- 1844 section is applicable beyond a reasonable doubt.
- 1845 (d) If any previous conviction and commitment is based upon a plea of guilty or no
- 1846 contest, there is a rebuttable presumption that the conviction and commitment were regular and
- 1847 lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the
- 1848 conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution
- 1849 to establish by a preponderance of the evidence that the defendant was then represented by
- 1850 counsel or had lawfully waived the right to have counsel present, and that the defendant's plea
- 1851 was understandingly and voluntarily entered.
- 1852 (e) If the trier of fact finds this section applicable, the court shall enter that specific
- 1853 finding on the record and shall indicate in the order of judgment and commitment that the
- 1854 defendant has been found by the trier of fact to be a habitual violent offender and is sentenced

1855 under this section.

1856 (5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the
1857 provisions of this section.

1858 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
1859 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual
1860 Offenses, to determine if the convicted person is a habitual violent offender.

1861 (6) The sentencing enhancement described in this section does not apply if:

1862 (a) the offense for which the person is being sentenced is:

1863 (i) a grievous sexual offense;

1864 (ii) child kidnapping, Section 76-5-301.1;

1865 (iii) aggravated kidnapping, Section 76-5-302; or

1866 (iv) forcible sexual abuse, Section 76-5-404; and

1867 (b) applying the sentencing enhancement provided for in this section would result in a
1868 lower maximum penalty than the penalty provided for under the section that describes the
1869 offense for which the person is being sentenced.

1870 Section 18. Section 76-3-406 is amended to read:

1871 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**
1872 **offense, or hospitalization may not be granted.**

1873 (1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a,
1874 Commitment and Treatment of Individuals with a Mental Condition, except as provided in
1875 Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the
1876 execution or imposition of sentence may not be suspended, the court may not enter a judgment
1877 for a lower category of offense, and hospitalization may not be ordered, the effect of which
1878 would in any way shorten the prison sentence for an individual who commits a capital felony
1879 [~~or a~~], first degree felony, or second degree felony involving:

1880 (a) Section 76-5-202, aggravated murder;

1881 (b) Section 76-5-203, murder;

1882 (c) Section 76-5-301.1, child [~~kidnaping~~] kidnapping;

1883 (d) Section 76-5-302, aggravated [~~kidnaping~~] kidnapping;

1884 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection

1885 76-5-402(3)(b), (3)(c), or (4);

- 1886 (f) Section 76-5-402.1, rape of a child;
- 1887 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection
- 1888 76-5-402.2(3)(b), (3)(c), or (4);
- 1889 (h) Section 76-5-402.3, object rape of a child;
- 1890 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection
- 1891 76-5-403(3)(b), (3)(c), or (4);
- 1892 (j) Section 76-5-403.1, sodomy on a child;
- 1893 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under
- 1894 Subsection 76-5-404(3)(b)(i) or (ii);
- 1895 (l) Section 76-5-404.1, sexual abuse of a child;
- 1896 [(f)] (m) Section 76-5-404.3, aggravated sexual abuse of a child;
- 1897 [(m)] (n) Section 76-5-405, aggravated sexual assault; or
- 1898 [(n)] (o) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- 1899 (2) Except for an offense before the district court in accordance with Section 80-6-502
- 1900 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the
- 1901 defendant:
- 1902 (a) was under 18 years old at the time of the offense; and
- 1903 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
- 1904 delayed filing of the information.
- 1905 Section 19. Section 76-5-203 is amended to read:
- 1906 **76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation --**
- 1907 **Separate offenses.**
- 1908 (1) (a) As used in this section, "predicate offense" means:
- 1909 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 1910 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
- 1911 individual is younger than 18 years old;
- 1912 (iii) kidnapping under Section 76-5-301;
- 1913 (iv) child kidnapping under Section 76-5-301.1;
- 1914 (v) aggravated kidnapping under Section 76-5-302;
- 1915 (vi) rape under Section 76-5-402;
- 1916 (vii) rape of a child under Section 76-5-402.1;

- 1917 (viii) object rape under Section [76-5-402.2](#);
- 1918 (ix) object rape of a child under Section [76-5-402.3](#);
- 1919 (x) forcible sodomy under Section [76-5-403](#);
- 1920 (xi) sodomy upon a child under Section [76-5-403.1](#);
- 1921 (xii) forcible sexual abuse under Section [76-5-404](#);
- 1922 (xiii) sexual abuse of a child under Section [76-5-404.1](#);
- 1923 (xiv) aggravated sexual abuse of a child under Section [76-5-404.3](#);
- 1924 (xv) aggravated sexual assault under Section [76-5-405](#);
- 1925 (xvi) arson under Section [76-6-102](#);
- 1926 (xvii) aggravated arson under Section [76-6-103](#);
- 1927 (xviii) burglary under Section [76-6-202](#);
- 1928 (xix) aggravated burglary under Section [76-6-203](#);
- 1929 (xx) robbery under Section [76-6-301](#);
- 1930 (xxi) aggravated robbery under Section [76-6-302](#);
- 1931 (xxii) escape [~~or aggravated escape~~] under Section [76-8-309](#);
- 1932 (xxiii) aggravated escape under Section [76-8-309.1](#); or
- 1933 [~~(xxiii)~~] (xxiv) a felony violation of Section [76-10-508](#) or [76-10-508.1](#) regarding
- 1934 discharge of a firearm or dangerous weapon.
- 1935 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
- 1936 (2) An actor commits murder if:
- 1937 (a) the actor intentionally or knowingly causes the death of another individual;
- 1938 (b) intending to cause serious bodily injury to another individual, the actor commits an
- 1939 act clearly dangerous to human life that causes the death of the other individual;
- 1940 (c) acting under circumstances evidencing a depraved indifference to human life, the
- 1941 actor knowingly engages in conduct that creates a grave risk of death to another individual and
- 1942 thereby causes the death of the other individual;
- 1943 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
- 1944 flight from the commission or attempted commission of any predicate offense, or is a party to
- 1945 the predicate offense;
- 1946 (ii) an individual other than a party described in Section [76-2-202](#) is killed in the
- 1947 course of the commission, attempted commission, or immediate flight from the commission or

1948 attempted commission of any predicate offense; and
1949 (iii) the actor acted with the intent required as an element of the predicate offense;
1950 (e) the actor recklessly causes the death of a peace officer or military service member
1951 in uniform while in the commission or attempted commission of:
1952 (i) an assault against a peace officer under Section 76-5-102.4;
1953 (ii) interference with a peace officer while making a lawful arrest under Section
1954 76-8-305 if the actor uses force against the peace officer; or
1955 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
1956 or
1957 (f) the actor commits a homicide that would be aggravated murder, but the offense is
1958 reduced in accordance with Subsection 76-5-202(4).
1959 (3) (a) (i) A violation of Subsection (2) is a first degree felony.
1960 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an
1961 indeterminate term of not less than 15 years and which may be for life.
1962 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
1963 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
1964 doubt, and also finds that the existence of special mitigation is established by a preponderance
1965 of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of
1966 conviction as follows:
1967 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
1968 judgment of conviction for manslaughter; or
1969 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
1970 notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of
1971 conviction for attempted manslaughter.
1972 (4) (a) It is an affirmative defense to a charge of murder or attempted murder that the
1973 defendant caused the death of another individual or attempted to cause the death of another
1974 individual under a reasonable belief that the circumstances provided a legal justification or
1975 excuse for the conduct although the conduct was not legally justifiable or excusable under the
1976 existing circumstances.
1977 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
1978 the viewpoint of a reasonable person under the then existing circumstances.

1979 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
1980 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
1981 doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven
1982 beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

1983 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
1984 judgment of conviction for manslaughter; or

1985 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
1986 enter a judgment of conviction for attempted manslaughter.

1987 (5) (a) Any predicate offense that constitutes a separate offense does not merge with
1988 the crime of murder.

1989 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a
1990 separate offense, may also be convicted of, and punished for, the separate offense.

1991 Section 20. Section **76-6-513** is amended to read:

1992 **76-6-513. Unlawful dealing of property by a fiduciary.**

1993 (1) (a) As used in this section:

1994 (i) "Fiduciary" means the same as that term is defined in Section [22-1-1](#).

1995 (ii) "Financial institution" means "depository institution" and "trust company" as
1996 defined in Section [7-1-103](#).

1997 (iii) "Governmental entity" is as defined in Section [63G-7-102](#).

1998 (iv) "Person" does not include a financial institution whose fiduciary functions are
1999 supervised by the Department of Financial Institutions or a federal regulatory agency.

2000 (v) "Property" means the same as that term is defined in Section [76-6-401](#).

2001 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2002 (2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

2003 (a) deals with property:

2004 (i) that has been entrusted to the actor as a fiduciary, or property of a governmental
2005 entity, public money, or of a financial institution; and

2006 (ii) in a manner which:

2007 (A) the actor knows is a violation of the actor's duty; and

2008 (B) involves substantial risk of loss or detriment to the property owner or to a person
2009 for whose benefit the property was entrusted; or

2010 (b) acting as a fiduciary pledges:
2011 (i) as collateral for a personal loan, or as collateral for the benefit of some party, other
2012 than the owner or the person for whose benefit the property was entrusted, the property that has
2013 been entrusted to the fiduciary; and
2014 (ii) without permission of the owner of the property or some other authorized person.
2015 (3) (a) A violation of Subsection (2)(a) is:
2016 (i) a second degree felony if the:
2017 (A) value of the property is or exceeds \$5,000; or
2018 (B) property is stolen from the person of another;
2019 (ii) a third degree felony if:
2020 (A) the value of the property is or exceeds \$1,500 but is less than \$5,000;
2021 (B) the value of the property is or exceeds \$500 and the actor has been twice before
2022 convicted of any of the following offenses, if each prior offense was committed within 10 years
2023 before the date of the current conviction or the date of the offense upon which the current
2024 conviction is based and at least one of those convictions is for a class A misdemeanor:
2025 (I) any theft, any robbery, or any burglary with intent to commit theft;
2026 (II) any offense under Part 5, Fraud; or
2027 (III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II); or
2028 [~~(C) the value of property is or exceeds \$500 but is less than \$1,500; or~~]
2029 [~~(D)~~] (C) the actor has been previously convicted of a felony violation of any of the
2030 offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was
2031 committed within 10 years before the date of the current conviction or the date of the offense
2032 upon which the current conviction is based;
2033 (iii) a class A misdemeanor if:
2034 (A) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
2035 (B) the actor has been twice before convicted of any of the offenses listed in
2036 Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed
2037 within 10 years before the date of the current conviction or the date of the offense upon which
2038 the current conviction is based; or
2039 (iv) a class B misdemeanor if the value of the property stolen is less than \$500 and the
2040 theft is not an offense under Subsection (3)(a)(iii)(B).

2041 (b) A violation of Subsection (2)(b) is:
2042 (i) a second degree felony if the value of the property wrongfully pledged is or exceeds
2043 \$5,000;

2044 (ii) a third degree felony if the value of the property wrongfully pledged is or exceeds
2045 \$1,500 but is less than \$5,000;

2046 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less
2047 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent
2048 to commit theft, or unlawful dealing with property by a fiduciary; or

2049 (iv) a class B misdemeanor if the value of the property is less than \$500.

2050 (4) This section may not be construed to impose criminal or civil liability on any law
2051 enforcement officer acting within the scope of a criminal investigation.

2052 (5) The forfeiture of property under this section, including any seizure and disposition
2053 of the property and any related judicial or administrative proceeding, shall be conducted in
2054 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
2055 11c, Retention of Evidence.

2056 Section 21. Section **76-8-101** is amended to read:

2057 **76-8-101. Definitions.**

2058 As used in this chapter:

2059 [~~(1) "Candidate for electoral office" means a person who files as a candidate for office~~
2060 ~~under the laws of the state.~~]

2061 [~~(2)~~] (1) "Harm" means a disadvantage or a physical, emotional, or economic injury to
2062 a person or a person's property, reputation, or business interests.

2063 (2) "Party official" means [~~a person~~] an individual holding any post in a political party
2064 whether by election, appointment, or otherwise.

2065 (3) "Peace officer" means an employee of a police or law enforcement agency that is
2066 part of or administered by the state or [~~any of its political subdivisions~~] a political subdivision
2067 of the state, and whose duties consist primarily of the prevention and detection of crime and the
2068 enforcement of criminal statutes or ordinances of this state or [~~any of its political subdivisions~~]
2069 a political subdivision of the state.

2070 (4) (a) "Pecuniary benefit" means [~~any~~] an advantage in the form of money, property,
2071 commercial interest, or anything else, the primary significance of which is economic gain.

2072 (b) "Pecuniary benefit" does not include economic advantage applicable to the public
2073 generally, such as tax reduction or increased prosperity generally.

2074 (5) (a) "Public property" means real or personal property that is owned, held, or
2075 managed by a public entity.

2076 (b) "Public property" includes real or personal property that is owned, held, or managed
2077 by a public entity after the real or personal property is transferred by the public entity to an
2078 independent contractor of the public entity.

2079 (c) "Public property" remains public property while in the possession of an independent
2080 contractor of a public entity for the purpose of providing a program or service for, or on behalf
2081 of, the public entity.

2082 Section 22. Section **76-8-102** is amended to read:

2083 **76-8-102. Campaign contributions not prohibited.**

2084 (1) Nothing in this chapter shall be construed to prohibit the giving or receiving of
2085 campaign contributions made for the purpose of defraying the costs of a political campaign.

2086 (2) No person shall be convicted of an offense solely on the evidence that a campaign
2087 contribution was made and that an appointment or nomination was subsequently made by the
2088 person to whose campaign or political party the contribution was made.

2089 Section 23. Section **76-8-103** is amended to read:

2090 **76-8-103. Bribery or offering a bribe.**

2091 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2092 (2) ~~[A person is guilty of]~~ An actor commits bribery or offering a bribe if ~~[that person]~~
2093 the actor promises, offers, or agrees to give or gives, directly or indirectly, any benefit to
2094 another with the purpose or intent to influence an action, decision, opinion, recommendation,
2095 judgment, vote, nomination, or exercise of discretion of a public servant, party official, or
2096 voter.

2097 (3) A violation of Subsection (2) is:

2098 (a) a second degree felony if the value of the benefit is \$1,000 or more; or

2099 (b) a third degree felony if the value of the benefit is less than \$1,000.

2100 ~~[(2)]~~ (4) It is not a defense to a prosecution under this statute that:

2101 (a) the person sought to be influenced was not qualified to act in the desired way,
2102 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

- 2103 (b) the person sought to be influenced did not act in the desired way; or
- 2104 (c) the benefit is not conferred, solicited, or accepted until after:
 - 2105 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or
 - 2106 exercise of discretion, has occurred; or
 - 2107 (ii) the public servant ceases to be a public servant.
- 2108 [~~(3) Bribery or offering a bribe is:~~]
- 2109 [~~(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or~~
- 2110 ~~conferred is less than \$1,000; and]~~
- 2111 [~~(b) a second degree felony when the value of the benefit asked for, solicited, accepted,~~
- 2112 ~~or conferred is \$1,000 or more.]~~

2113 Section 24. Section **76-8-104** is amended to read:

2114 **76-8-104. Threat to influence official or political action.**

2115 (1) (a) As used in this section, "public servant" does not include a juror.

2116 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2117 (2) [~~A person is guilty of a class A misdemeanor if he threatens any harm to a public~~
2118 ~~servant, party official, or voter]~~ An actor commits threat to influence official or political action
2119 if the actor, with a purpose of influencing [his] an action, decision, opinion, recommendation,
2120 nomination, vote, or other exercise of discretion of a public servant, party official, or voter,
2121 threatens harm to:

2122 (a) the public servant, party official, or voter; or

2123 (b) a person or entity in whose welfare the public servant, party official, or voter is
2124 interested.

2125 (3) A violation of Subsection (2) is a class A misdemeanor.

2126 [~~(2) As used in this section:~~]

2127 [~~(a) "Harm" means any disadvantage or injury, pecuniary or otherwise, including~~
2128 ~~disadvantage or injury to any other person or entity in whose welfare the public servant, party~~
2129 ~~official, or voter is interested.]~~

2130 [~~(b) "Public servant" does not include jurors.]~~

2131 Section 25. Section **76-8-105** is amended to read:

2132 **76-8-105. Receiving or soliciting bribe or bribery by public servant.**

2133 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2134 ~~(2) [A person is guilty of]~~ An actor commits receiving or soliciting a bribe if ~~[that~~
2135 ~~person]~~ the actor asks for, solicits, accepts, or receives, directly or indirectly, any benefit with
2136 the understanding or agreement that the purpose or intent is to influence an action, decision,
2137 opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public
2138 servant, party official, or voter.

2139 (3) A violation of Subsection (2) is:

2140 (a) a second degree felony if the value of the benefit asked for, solicited, accepted, or
2141 conferred is more than \$1,000; or

2142 (b) a third degree felony if the value of the benefit asked for, solicited, accepted, or
2143 conferred is \$1,000 or less.

2144 ~~[(2)]~~ (4) It is not a defense to a prosecution under this statute that:

2145 (a) the person sought to be influenced was not qualified to act in the desired way,
2146 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

2147 (b) the person sought to be influenced did not act in the desired way; or

2148 (c) the benefit is not asked for, conferred, solicited, or accepted until after:

2149 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or
2150 exercise of discretion, has occurred; or

2151 (ii) the public servant ceases to be a public servant.

2152 ~~[(3) Receiving or soliciting a bribe is:]~~

2153 ~~[(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or~~
2154 ~~conferred is \$1,000 or less; and]~~

2155 ~~[(b) a second degree felony when the value of the benefit asked for, solicited, accepted,~~
2156 ~~or conferred exceeds \$1,000.]~~

2157 Section 26. Section **76-8-106** is amended to read:

2158 **76-8-106. Receiving bribe for endorsement of person as a public servant.**

2159 ~~[A person is guilty of a class B misdemeanor if:]~~

2160 (1) [Terms defined in Sections 76-1-101.5 and 76-8-101](#) apply to this section.

2161 (2) [He] An actor commits receiving a bribe for endorsement of a person as a public
2162 servant if the actor solicits, accepts, agrees to accept for ~~[himself]~~ the actor's self, another
2163 person, or a political party, money or any other pecuniary benefit as compensation for ~~[his]~~ the
2164 actor's endorsement, nomination, appointment, approval, or disapproval of any person for a

2165 position as a public servant or for the advancement of any public servant[; or].

2166 ~~[(2)] (3) [He knowingly gives, offers, or promises any pecuniary benefit prohibited by~~
2167 ~~paragraph (1)].~~ A violation of Subsection (2) is a class B misdemeanor.

2168 Section 27. Section **76-8-106.1** is enacted to read:

2169 **76-8-106.1. Bribery for endorsement of person as public servant.**

2170 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2171 (2) An actor commits bribery for endorsement of a person as a public servant if the
2172 actor knowingly gives, offers, or promises money or any other pecuniary benefit to a person or
2173 a political party as compensation for the person's or political party's endorsement, nomination,
2174 appointment, approval, or disapproval of any person for a position as a public servant or for the
2175 advancement of any public servant.

2176 (3) A violation of Subsection (2) is a class B misdemeanor.

2177 Section 28. Section **76-8-107** is amended to read:

2178 **76-8-107. Alteration of proposed legislative bill or resolution.**

2179 ~~[Every person who]~~

2180 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2181 (2) An actor commits alteration of proposed legislative bill or resolution if the actor
2182 fraudulently alters the draft of [any] a bill or resolution [which] that has been presented to
2183 either of the houses composing the Legislature to be passed or adopted, with intent to procure
2184 [its] the proposed legislative bill or resolution being passed or adopted by either house, or
2185 certified by the presiding officer of either house in language different from that intended by
2186 [such] either house[; is guilty of a felony of the third degree].

2187 Section 29. Section **76-8-108** is amended to read:

2188 **76-8-108. Alteration of enrolled legislative bill or resolution.**

2189 ~~[Every person who]~~

2190 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2191 (2) An actor commits alteration of enrolled legislative bill or resolution if the actor
2192 fraudulently alters the enrolled copy of [any] a bill or resolution [which] that has been passed
2193 or adopted by the Legislature with intent to procure [it] the enrolled bill or resolution to be
2194 approved by the governor or certified by the Division of Archives, or printed or published by
2195 the printer of statutes, in language different from that in which [it] the enrolled bill or

2196 resolution was passed or adopted by the Legislature~~[- is guilty of a felony of the third degree].~~

2197 (3) A violation of Subsection (2) is a third degree felony.

2198 Section 30. Section **76-8-110** is amended to read:

2199 **76-8-110. Prohibited action by peace officer for collection agency or creditor.**

2200 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2201 (2) ~~[A peace officer may not have any]~~ An actor commits prohibited action by peace
2202 officer for collection agency or creditor if the actor:

2203 (a) is a peace officer; and

2204 (b) (i) has an interest in [any] a collection agency; or [act]

2205 (ii) acts as a compensated collection agent for [any] a creditor or collection agency.

2206 ~~[(2)] (3) [A person that violates this section is guilty of]~~ A violation of Subsection (2)
2207 is a class C misdemeanor.

2208 Section 31. Section **76-8-201** is amended to read:

2209 **76-8-201. Official misconduct -- Unauthorized acts or failure of duty.**

2210 ~~[A public servant is guilty of a class B misdemeanor if;]~~

2211 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2212 (2) An actor commits official misconduct based on an unauthorized act or failure of
2213 duty if the actor:

2214 (a) is a public servant; and

2215 (b) with an intent to benefit [himself] the actor or another or to harm another, [he] the
2216 actor knowingly:

2217 (i) commits an unauthorized act [which] that purports to be an act of [his] the actor's
2218 office[-]; or

2219 (ii) knowingly refrains from performing a duty imposed on [him] the actor by law or
2220 clearly inherent in the nature of [his] the actor's office.

2221 (3) A violation of Subsection (2) is a class B misdemeanor.

2222 Section 32. Section **76-8-202** is amended to read:

2223 **76-8-202. Official misconduct concerning inside information.**

2224 ~~[A public servant is guilty of a class A misdemeanor if, knowing that official action is~~
2225 ~~contemplated or in reliance on information which he has acquired by virtue of his office or~~
2226 ~~from another public servant, which information has not been made public, he:]~~

- 2227 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 2228 (2) An actor commits official misconduct concerning inside information if:
- 2229 (a) the actor is a public servant; and
- 2230 (b) knowing that official action is contemplated, or in reliance on information that the
- 2231 actor has acquired by virtue of the actor's office or from another public servant, which
- 2232 information has not been made public, the actor:
- 2233 (i) acquires or divests [himself] the actor's self of a pecuniary interest in any property,
- 2234 transaction, or enterprise [which] that may be affected by such action or information;
- 2235 [~~(2)~~] (ii) speculates or wagers on the basis of such action or information; or
- 2236 [~~(3)~~] (iii) knowingly aids another person to do [any of the foregoing] an action
- 2237 described in Subsection (2)(b)(i) or (2)(b)(ii).
- 2238 (3) A violation of Subsection (2) is a class A misdemeanor.
- 2239 Section 33. Section **76-8-203** is amended to read:
- 2240 **76-8-203. Unofficial misconduct.**
- 2241 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 2242 (2) [~~A person is guilty of~~] An actor commits unofficial misconduct if the [person] actor
- 2243 exercises or attempts to exercise any of the functions of a public office when the [person] actor:
- 2244 (a) has not taken and filed the required oath of office;
- 2245 (b) has failed to execute and file a required bond;
- 2246 (c) has not been elected or appointed to office;
- 2247 (d) exercises any of the functions of [his] the actor's office after [his] the actor's term
- 2248 has expired and the successor has been elected or appointed and has qualified, or after [his] the
- 2249 actor's office has been legally removed; or
- 2250 (e) knowingly:
- 2251 (i) withholds or retains from [his] the actor's successor in office, or other person
- 2252 entitled to possession, the official seal or [any records, papers, documents, or other writings] a
- 2253 record, paper, document, or other writing appertaining or belonging to [his] the actor's office
- 2254 [or mutilates or destroys or takes away the same.]; or
- 2255 (ii) mutilates, destroys, or takes away the official seal or a record, paper, document, or
- 2256 other writing appertaining or belonging to the actor's office.
- 2257 [~~(2)~~] (3) [~~Unofficial misconduct~~] A violation of Subsection (2) is a class B

2258 misdemeanor.

2259 Section 34. Section **76-8-301** is amended to read:

2260 **76-8-301. Interference with public servant.**

2261 (1) (a) [An individual is guilty of] As used in this section, "public servant" does not
2262 include a juror.

2263 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2264 (2) An actor commits interference with a public servant if the [individual] actor:

2265 (a) uses force, violence, intimidation, or engages in any other unlawful act with a
2266 purpose to interfere with a public servant performing or purporting to perform an official
2267 function; or

2268 (b) obstructs, hinders, conceals, or prevents the lawful service of any civil or criminal
2269 legal process~~[, civil or criminal, by any]~~ by a sheriff, constable, deputy sheriff, deputy
2270 constable, peace officer, private investigator, or any other person authorized to serve legal
2271 process~~[; or]~~.

2272 ~~[(c) on property that is owned, operated, or controlled by the state or a political~~
2273 ~~subdivision of the state, willfully denies to a public servant lawful:]~~

2274 ~~[(i) freedom of movement;]~~

2275 ~~[(ii) use of the property or facilities; or]~~

2276 ~~[(iii) entry into or exit from the facilities.]~~

2277 ~~[(2) Interference with a public servant:]~~

2278 ~~[(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and]~~

2279 ~~[(b) under Subsection (1)(c) is a class C misdemeanor.]~~

2280 ~~[(3) For purposes of this section, "public servant" does not include jurors.]~~

2281 (3) A violation of Subsection (2) is a class B misdemeanor.

2282 Section 35. Section **76-8-301.2** is enacted to read:

2283 **76-8-301.2. Denial of public servant's use of public property.**

2284 (1) (a) As used in this section, "public servant" does not include a juror.

2285 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2286 (2) An actor commits denial of public servant's use of public property if the actor, on
2287 property that is owned, operated, or controlled by the state or a political subdivision of the
2288 state, willfully denies to a public servant lawful:

2289 (a) freedom of movement;

2290 (b) use of the property or facility; or

2291 (c) entry into or exit from the facility.

2292 (3) A violation of Subsection (2) is a class C misdemeanor.

2293 Section 36. Section **76-8-301.5** is amended to read:

2294 **76-8-301.5. Failure to disclose identity.**

2295 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2296 (2) [A person is guilty of] An actor commits failure to disclose identity if, during the
 2297 period of time that the [person] actor is lawfully subjected to a stop as described in Section
 2298 77-7-15:

2299 (a) a peace officer demands that the [person] actor disclose the [person's] actor's name
 2300 or date of birth;

2301 (b) the demand described in Subsection [(1)(a)] (2)(a) is reasonably related to the
 2302 circumstances justifying the stop;

2303 (c) the disclosure of the [person's] actor's name or date of birth by the [person] actor
 2304 does not present a reasonable danger of self-incrimination in the commission of a crime; and

2305 (d) the [person] actor fails to disclose the [person's] actor's name or date of birth.

2306 [(2)] (3) [Failure to disclose identity] A violation of Subsection (2) is a class B
 2307 misdemeanor.

2308 Section 37. Section **76-8-302** is amended to read:

2309 **76-8-302. Picketing or parading in or near court.**

2310 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2311 (2) [A person is guilty of a class B misdemeanor if he] An actor commits picketing or
 2312 parading in or near a court if the actor pickets or parades in or near a building [which] that
 2313 houses a court of this state with intent to:

2314 (a) obstruct access to that court; or [to]

2315 (b) affect the outcome of a case pending before that court.

2316 (3) A violation of Subsection (2) is a class B misdemeanor.

2317 Section 38. Section **76-8-303** is amended to read:

2318 **76-8-303. Prevention of Legislature or public servant from meeting or**
 2319 **organizing.**

2320 [A person is guilty of a felony of the third degree if he intentionally and by force or
2321 fraud:]

2322 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2323 (2) An actor commits prevention of Legislature or public servant from meeting or
2324 organizing if the actor intentionally and by force or fraud:

2325 (a) [~~Prevents~~] prevents the Legislature, [~~or~~] either of the houses composing [~~it~~] the
2326 Legislature, or any of the members [~~thereof~~] of the Legislature, from meeting or organizing; or

2327 [~~(2)~~] (b) [~~Prevents~~] prevents any other public servant from meeting or organizing to
2328 perform a lawful governmental function.

2329 (3) A violation of Subsection (2) is a third degree felony.

2330 Section 39. Section **76-8-305** is amended to read:

2331 **76-8-305. Interference with a peace officer.**

2332 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2333 (2) [~~A person is guilty of a class B misdemeanor if the person~~] actor commits
2334 interference with a peace officer if the actor:

2335 (a) knows, or by the exercise of reasonable care should have known, that a peace
2336 officer is seeking to effect a lawful arrest or detention of [~~that person~~] the actor or another
2337 [~~person~~] individual; and

2338 (b) interferes with the arrest or detention by:

2339 [~~(a)~~] (i) use of force or [~~any~~] a weapon;

2340 [~~(b)~~] (ii) refusing to perform [~~any~~] an act required by lawful order:

2341 [~~(i)~~] (A) necessary to effect the arrest or detention; and

2342 [~~(ii)~~] (B) made by a peace officer involved in the arrest or detention; or

2343 [~~(c)~~] (iii) refusing to refrain from performing [~~any~~] an act that would impede the arrest
2344 or detention.

2345 [~~(2)~~] (3) A violation of Subsection (2) is a class B misdemeanor.

2346 (4) Recording the actions of a [~~law enforcement~~] peace officer with a camera, mobile
2347 phone, or other photographic device, while the peace officer is performing official duties in
2348 plain view, does not by itself constitute:

2349 (a) interference with the peace officer;

2350 (b) willful resistance;

2351 (c) disorderly conduct; or

2352 (d) obstruction of justice.

2353 Section 40. Section **76-8-305.5** is amended to read:

2354 **76-8-305.5. Failure to stop at the command of a peace officer.**

2355 ~~[A person is guilty of a class A misdemeanor who flees from or otherwise attempts to~~
2356 ~~elude a peace officer:]~~

2357 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2358 (2) An actor commits failure to stop at the command of a peace officer if, after the
2359 peace officer has issued a verbal or visual command to stop[;], the actor flees from or
2360 otherwise attempts to elude a peace officer:

2361 ~~[(2)]~~ (a) for the purpose of avoiding arrest; and

2362 ~~[(3)]~~ (b) by any means other than a violation of Section 41-6a-210 regarding failure to
2363 stop a vehicle at the command of a law enforcement officer.

2364 (3) A violation of Subsection (2) is a class A misdemeanor.

2365 Section 41. Section **76-8-306** is amended to read:

2366 **76-8-306. Obstruction of justice in a criminal investigation or proceeding.**

2367 (1) (a) As used in this section:

2368 (i) (A) "Conduct that constitutes a criminal offense" means conduct that would be
2369 punishable as a crime and is separate from a violation of this section.

2370 (B) "Conduct that constitutes a criminal offense" includes:

2371 (I) any violation of a criminal statute or ordinance of this state or a political subdivision
2372 of this state, any other state, or any district, possession, or territory of the United States; and

2373 (II) conduct committed by a juvenile that would be a crime if committed by an adult.

2374 (ii) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

2375 (iii) "Official custody" means the same as that term is defined in Section 76-8-309.

2376 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2377 (2) ~~[An]~~ Except as provided in Subsection (5), an actor commits obstruction of justice
2378 in a criminal investigation or proceeding if the actor, with intent to hinder, delay, or prevent the
2379 investigation, apprehension, prosecution, conviction, or punishment of any person regarding
2380 conduct that constitutes a criminal offense:

2381 (a) provides any person with a weapon;

2382 (b) prevents by force, intimidation, or deception, [any] a person from performing [any]
2383 an act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of
2384 any person;

2385 (c) alters, destroys, conceals, or removes [any] an item or other thing;

2386 (d) makes, presents, or uses [any] an item or thing known by the actor to be false;

2387 (e) harbors or conceals a person;

2388 (f) provides a person with transportation, disguise, or other means of avoiding
2389 discovery or apprehension;

2390 (g) warns [any] a person of impending discovery or apprehension;

2391 (h) warns [any] a person of an order authorizing the interception of wire
2392 communications or of a pending application for an order authorizing the interception of wire
2393 communications;

2394 (i) conceals information that is not privileged and that concerns the offense, after a
2395 judge or magistrate has ordered the actor to provide the information; or

2396 (j) provides false information regarding a suspect, a witness, the conduct constituting
2397 an offense, or any other material aspect of the investigation.

2398 ~~[(2) (a) As used in this section, "conduct that constitutes a criminal offense" means~~
2399 ~~conduct that would be punishable as a crime and is separate from a violation of this section,~~
2400 ~~and includes:]~~

2401 ~~[(i) any violation of a criminal statute or ordinance of this state, its political~~
2402 ~~subdivisions, any other state, or any district, possession, or territory of the United States; and]~~

2403 ~~[(ii) conduct committed by a juvenile which would be a crime if committed by an~~
2404 ~~adult.]~~

2405 ~~[(b) A violation of a criminal statute that is committed in another state, or any district,~~
2406 ~~possession, or territory of the United States, is a:]~~

2407 ~~[(i) capital felony if the penalty provided includes death or life imprisonment without~~
2408 ~~parole;]~~

2409 ~~[(ii) a first degree felony if the penalty provided includes life imprisonment with parole~~
2410 ~~or a maximum term of imprisonment exceeding 15 years;]~~

2411 ~~[(iii) a second degree felony if the penalty provided exceeds five years;]~~

2412 ~~[(iv) a third degree felony if the penalty provided includes imprisonment for any period~~

2413 ~~exceeding one year; and]~~

2414 ~~[(v) a misdemeanor if the penalty provided includes imprisonment for any period of~~
 2415 ~~one year or less.]~~

2416 (3) ~~[Obstruction of justice]~~ A violation of Subsection (2) is:

2417 (a) a second degree felony if the conduct ~~[which]~~ that constitutes an offense would be a
 2418 capital felony or first degree felony;

2419 (b) a third degree felony if:

2420 (i) the conduct that constitutes an offense would be a second or third degree felony and
 2421 the actor violates Subsection ~~[(1)(b)]~~ (2)(b), (c), (d), (e), or (f);

2422 (ii) the conduct that constitutes an offense would be any offense other than a capital or
 2423 first degree felony and the actor violates Subsection ~~[(1)(a)]~~ (2)(a);

2424 (iii) the obstruction of justice is presented or committed before a court of law; or

2425 (iv) a violation of Subsection ~~[(1)(h)]~~ (2)(h); or

2426 (c) a class A misdemeanor for any violation of this section that is not enumerated under
 2427 Subsection (3)(a) or (b).

2428 (4) It is not a defense that the actor was unaware of the level of penalty for the conduct
 2429 constituting an offense.

2430 ~~[(5) Subsection (1)(c) does not apply to harboring a juvenile offender, as defined in~~
 2431 ~~Section 80-1-102, which is governed by Section 76-8-311.5.]~~

2432 ~~[(6)]~~ (5) (a) Subsection (2) does not apply to harboring or concealing an offender who
 2433 has escaped from official custody, which is governed by Section 76-8-309.2.

2434 (b) Subsection ~~[(1)(b)]~~ (2)(b) does not apply to:

2435 ~~[(a) tampering with a juror, which is governed by Section 76-8-508.5;]~~

2436 ~~[(b)]~~ (i) [influencing, impeding, or retaliating against a judge or member of the Board
 2437 of Pardons and Parole, which is governed by] threat with intent to impede, intimidate, interfere,
 2438 or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a
 2439 family member of a judge or a member of the Board of Pardons and Parole under Section
 2440 76-8-316;

2441 (ii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a
 2442 member of the Board of Pardons and Parole or acting against a family member of a judge or a
 2443 member of the Board of Pardons and Parole under Section 76-8-316.2;

2444 (iii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a
2445 judge or a member of the Board of Pardons and Parole or acting against a family member of a
2446 judge or a member of the Board of Pardons and Parole under Section 76-8-316.4;

2447 (iv) attempted murder with intent to impede, intimidate, interfere, or retaliate against a
2448 judge or a member of the Board of Pardons and Parole or acting against a family member of a
2449 judge or a member of the Board of Pardons and Parole under Section 76-8-316.6;

2450 ~~[(e)]~~ (v) tampering with a witness [or soliciting or receiving a bribe, which is governed
2451 by] under Section 76-8-508;

2452 ~~[(d)]~~ (vi) retaliation against a witness, victim, or informant[, which is governed by]
2453 under Section 76-8-508.3; [or]

2454 (vii) tampering or retaliating against a juror under Section 76-8-508.5;

2455 (viii) receiving or soliciting a bribe as a witness under Section 76-8-508.7; or

2456 ~~[(e)]~~ (ix) extortion or bribery to dismiss a criminal proceeding[, which is governed by]
2457 under Section 76-8-509.

2458 (c) Subsection (2)(e) does not apply to harboring a juvenile offender, which is
2459 governed by Section 76-8-319.

2460 ~~[(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony~~
2461 ~~if the actor harbors or conceals an offender who has escaped from official custody as defined in~~
2462 ~~Section 76-8-309.]~~

2463 (6) For purposes of Subsection (3), a violation of a criminal statute that is committed in
2464 another state, or any district, possession, or territory of the United States, is:

2465 (a) a capital felony if the penalty provided includes death or life imprisonment without
2466 parole;

2467 (b) a first degree felony if the penalty provided includes life imprisonment with parole
2468 or a maximum term of imprisonment exceeding 15 years;

2469 (c) a second degree felony if the penalty provided exceeds five years;

2470 (d) a third degree felony if the penalty provided includes imprisonment for any period
2471 exceeding one year; or

2472 (e) a misdemeanor if the penalty provided includes imprisonment for any period of one
2473 year or less.

2474 Section 42. Section 76-8-306.5 is amended to read:

2475 **76-8-306.5. Obstructing service of a Board of Pardons and Parole warrant or a**
2476 **probationer order to show cause.**

2477 ~~[A person is guilty of a third degree felony who:]~~

2478 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2479 (2) An actor commits obstructing service of a Board of Pardons and Parole warrant or a
2480 probationer order to show cause if the actor:

2481 (a) knows that:

2482 (i) the Board of Pardons and Parole has issued a warrant for a parolee; or ~~[that]~~

2483 (ii) a court has issued an order to show cause regarding a defendant's violation of the
2484 terms of probation; and

2485 ~~[(2)]~~ (b) ~~[(a)]~~ (i) harbors or conceals the parolee or probationer;

2486 ~~[(b)]~~ (ii) provides the parolee or probationer with transportation, disguise, or other
2487 means or assistance to avoid discovery; or

2488 ~~[(c)]~~ (iii) warns the parolee or probationer of ~~[his]~~ the parolee's or probationer's
2489 impending discovery.

2490 (3) A violation of Subsection (2) is a third degree felony.

2491 Section 43. Section **76-8-307** is amended to read:

2492 **76-8-307. Failure to aid a peace officer.**

2493 ~~[A person is guilty of a class B misdemeanor]~~

2494 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2495 (2) An actor commits failure to aid a peace officer if, upon command by a peace officer
2496 identifiable or identified by ~~[him]~~ the peace officer as such, ~~[he]~~ the actor unreasonably fails or
2497 refuses to aid the peace officer in effecting an arrest or in preventing the commission of any
2498 offense by another person.

2499 (3) A violation of Subsection (2) is a class B misdemeanor.

2500 Section 44. Section **76-8-308** is amended to read:

2501 **76-8-308. Acceptance of bribe or bribery to prevent criminal prosecution.**

2502 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2503 (2) ~~[A person is guilty of a class A misdemeanor if he]~~ An actor commits acceptance of
2504 bribe or bribery to prevent criminal prosecution if the actor:

2505 (a) solicits, accepts, or agrees to accept any benefit as consideration for ~~[his]~~ the actor's

2506 refraining from initiating or aiding in a criminal prosecution; or

2507 (b) confers, offers, or agrees to confer any benefit upon [~~another~~] a person as
2508 consideration for the person refraining from initiating or aiding in a criminal prosecution.

2509 (3) A violation of Subsection (2) is a class A misdemeanor.

2510 ~~[(2)]~~ (4) It is an affirmative defense that the value of the benefit did not exceed an
2511 amount [~~which~~] that the actor believed to be due as restitution or indemnification for the loss
2512 caused or to be caused by the offense.

2513 Section 45. Section **76-8-309** is amended to read:

2514 **76-8-309. Escape.**

2515 (1) (a) As used in this section:

2516 (i) "Confinement" means a prisoner is:

2517 (A) housed in a state prison or another facility pursuant to a contract with the Utah
2518 Department of Corrections after being sentenced and committed and the sentence has not been
2519 terminated or voided or the prisoner is not on parole;

2520 (B) lawfully detained in a county jail prior to trial or sentencing or housed in a county
2521 jail after sentencing and commitment and the sentence has not been terminated or voided or the
2522 prisoner is not on parole; or

2523 (C) lawfully detained following arrest.

2524 (ii) "Confinement in a state prison" means that an individual:

2525 (A) is in prehearing custody after arrest for parole violation;

2526 (B) is being housed in a county jail, after felony commitment, pursuant to a contract
2527 with the Department of Corrections; or

2528 (C) is being transported as a prisoner in the state prison by a correctional officer.

2529 (iii) "Escape" is considered to be a continuing activity commencing with the
2530 conception of the design to escape and continuing until the escaping prisoner is returned to
2531 official custody or the prisoner's attempt to escape is thwarted or abandoned.

2532 (iv) "Lawful authorization" does not include authorization to leave official custody that
2533 is obtained by a prisoner by means of deceit, fraud, or other artifice.

2534 (v) "Official custody" means:

2535 (A) arrest, whether with or without a warrant;

2536 (B) confinement in a state prison, jail, or institution for secure confinement of juvenile

2537 offenders;

2538 (C) released from a prison or jail for work release or home visit subject to a designated
2539 time for return; or

2540 (D) any confinement pursuant to an order of a court or sentenced and committed and
2541 the sentence has not been terminated or voided or the prisoner is not on parole.

2542 (vi) "Prisoner" means any person who is in official custody and includes persons under
2543 trusty status.

2544 (vii) "Volunteer" means a person who donates service without pay or other
2545 compensation except expenses actually and reasonably incurred as approved by the supervising
2546 agency.

2547 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

2548 ~~[(a)] (2) [(i) A prisoner is guilty of escape if the prisoner]~~ An actor commits escape if
2549 the actor:

2550 (a) (i) is a prisoner; and

2551 (ii) leaves official custody without lawful authorization[-]; or

2552 (b) (i) is convicted as a party to an offense under this section, as defined in Section
2553 [76-2-202](#); and

2554 (ii) is an employee at or a volunteer of:

2555 (A) a law enforcement agency, the Department of Corrections, a county or district
2556 attorney's office, the Office of the Attorney General, the Board of Pardons and Parole; or

2557 (B) a court, the Judicial Council, the Administrative Office of the Courts, or a similar
2558 administrative unit in the judicial branch of government.

2559 ~~[(ii) If a prisoner obtains authorization to leave official custody by means of deceit,~~
2560 ~~fraud, or other artifice, the prisoner has not received lawful authorization.]~~

2561 ~~[(b)] (3) (a) [Escape under this Subsection (1) is a]~~ Except as provided by Subsection
2562 (3)(b) or Section [76-8-309.1](#), a violation of Subsection (2) is a third degree felony [except as
2563 provided under Subsection (1)(c)].

2564 ~~[(c)] (b) [Escape under this Subsection (1)]~~ Except as provided by Section [76-8-309.1](#),
2565 a violation of Subsection (2) is a second degree felony if:

2566 (i) the actor escapes [from] confinement in a state prison; [or]

2567 (ii) the actor violates Subsection (2)(b); or

2568 (iii) the prisoner left official custody by failing to return from work release or home
2569 visit by the time designated for return.

2570 [~~(ii) (A) the actor is convicted as a party to the offense, as defined in Section 76-2-202;~~
2571 ~~and]~~

2572 [~~(B) the actor is an employee at or a volunteer of a law enforcement agency, the~~
2573 ~~Department of Corrections, a county or district attorney's office, the office of the state attorney~~
2574 ~~general, the Board of Pardons and Parole, or the courts, the Judicial Council, the~~
2575 ~~Administrative Office of the Courts, or similar administrative units in the judicial branch of~~
2576 ~~government.]~~

2577 [~~(2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape the~~
2578 ~~prisoner uses a dangerous weapon, as defined in Section 76-1-101.5, or causes serious bodily~~
2579 ~~injury to another.]~~

2580 [~~(b) Aggravated escape is a first degree felony.]~~

2581 [~~(3)~~] (4) [~~Any prison term imposed upon a prisoner for escape under this section shall~~
2582 ~~run consecutively with] A court sentencing an actor for a violation of this section shall impose
2583 a consecutive sentence to any other sentence the actor is either serving or ordered to serve.~~

2584 [~~(4) For the purposes of this section:]~~

2585 [~~(a) "Confinement" means the prisoner is:]~~

2586 [~~(i) housed in a state prison or any other facility pursuant to a contract with the Utah~~
2587 ~~Department of Corrections after being sentenced and committed and the sentence has not been~~
2588 ~~terminated or voided or the prisoner is not on parole;]~~

2589 [~~(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county~~
2590 ~~jail after sentencing and commitment and the sentence has not been terminated or voided or the~~
2591 ~~prisoner is not on parole; or]~~

2592 [~~(iii) lawfully detained following arrest.]~~

2593 [~~(b) "Escape" is considered to be a continuing activity commencing with the~~
2594 ~~conception of the design to escape and continuing until the escaping prisoner is returned to~~
2595 ~~official custody or the prisoner's attempt to escape is thwarted or abandoned.]~~

2596 [~~(c) "Official custody" means arrest, whether with or without warrant, or confinement~~
2597 ~~in a state prison, jail, institution for secure confinement of juvenile offenders, or any~~
2598 ~~confinement pursuant to an order of the court or sentenced and committed and the sentence has~~

2599 ~~not been terminated or voided or the prisoner is not on parole. A person is considered confined~~
2600 ~~in the state prison if the person:]~~

2601 ~~[(i) without authority fails to return to the person's place of confinement from work~~
2602 ~~release or home visit by the time designated for return;]~~

2603 ~~[(ii) is in prehearing custody after arrest for parole violation;]~~

2604 ~~[(iii) is being housed in a county jail, after felony commitment, pursuant to a contract~~
2605 ~~with the Department of Corrections; or]~~

2606 ~~[(iv) is being transported as a prisoner in the state prison by correctional officers.]~~

2607 ~~[(d) "Prisoner" means any person who is in official custody and includes persons under~~
2608 ~~trustee status.]~~

2609 ~~[(e) "Volunteer" means any person who donates service without pay or other~~
2610 ~~compensation except expenses actually and reasonably incurred as approved by the supervising~~
2611 ~~agency.]~~

2612 Section 46. Section **76-8-309.1** is enacted to read:

2613 **76-8-309.1. Aggravated escape.**

2614 (1) (a) As used in this section, "escape" means an offense under Section [76-8-309](#).

2615 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

2616 (2) An actor commits aggravated escape if, during the course of the commission of an
2617 escape, the actor:

2618 (a) uses a dangerous weapon; or

2619 (b) causes serious bodily injury to another.

2620 (3) A violation of Subsection (2) is a first degree felony.

2621 (4) A court sentencing an actor for a violation of this section shall impose a
2622 consecutive sentence to any other sentence the actor is either serving or ordered to serve.

2623 Section 47. Section **76-8-309.2** is enacted to read:

2624 **76-8-309.2. Harboring or concealing an offender who has escaped from official**
2625 **custody.**

2626 (1) (a) As used in this section, "official custody" means the same as that term is defined
2627 in Section [76-8-309](#).

2628 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

2629 (2) An actor commits harboring or concealing an offender who has escaped from

2630 official custody if the actor harbors or conceals an offender who has escaped from official
2631 custody.

2632 (3) A violation of Subsection (2) is a third degree felony.

2633 Section 48. Section **76-8-311.1** is amended to read:

2634 **76-8-311.1. Establishment of secure areas -- Items prohibited -- References to**
2635 **penalty provisions.**

2636 (1) [~~In addition to the definitions in Section 76-10-501, as]~~

2637 (a) As used in this section:

2638 [~~(a)~~] (i) "Correctional facility" [~~has the same meaning as]~~ means the same as that term
2639 is defined in Section 76-8-311.3.

2640 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2641 [~~(b)~~] (iii) "Explosive" [~~has the same meaning as defined for]~~ means the same as the
2642 term "explosive, chemical, or incendiary device" defined in Section 76-10-306.

2643 (iv) "Firearm" means the same as that term is defined in Section 76-10-501.

2644 [~~(c)~~] (v) "Law enforcement facility" means a facility [~~which]~~ that is owned, leased, or
2645 operated by a law enforcement agency.

2646 [~~(d)~~] (vi) "Mental health facility" [~~has the same meaning as]~~ means the same as that
2647 term is defined in Section 26B-5-301.

2648 [~~(e)~~] (vii) (i) (A) "Secure area" means [~~any]~~ an area created under this section into
2649 which certain persons are restricted from transporting [~~any]~~ a firearm or other dangerous
2650 weapon, ammunition, [~~dangerous weapon,~~] or explosive.

2651 (ii) (B) A "secure area" may not include any area normally accessible to the public.

2652 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2653 (2) (a) [~~A person in charge of the]~~ The State Tax Commission or a correctional, law
2654 enforcement, or mental health facility may establish secure areas within the facility and may
2655 prohibit or control by rule any firearm or other dangerous weapon, ammunition, [~~dangerous~~
2656 weapon,] or explosive.

2657 (b) Subsections (2)(a), (3), (4), [~~(5), and (6)] and (5) apply to a higher education secure
2658 area hearing [~~rooms]~~ room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).~~

2659 (3) [~~At]~~ An entity that creates a secure area under this section shall ensure that at least
2660 one notice [~~shall be]~~ is prominently displayed at each entrance to [~~an]~~ the secure area in which

2661 a firearm, ammunition, dangerous weapon, or explosive is restricted.

2662 (4) (a) ~~[Provisions shall be made to]~~ An entity that creates a secure area under this
 2663 section shall provide a secure weapons storage area so that [persons] an individual entering the
 2664 secure area may store [their weapons prior to] the individual's weapon before entering the
 2665 secure area.

2666 (b) The entity operating the facility shall be responsible for ~~[weapons]~~ a weapon while
 2667 ~~[they are]~~ the weapon is stored in the storage area described in Subsection (4)(a).

2668 ~~[(5) It is a defense to any prosecution under this section that the accused, in committing~~
 2669 ~~the act made criminal by this section, acted in conformity with the facility's rule or policy~~
 2670 ~~established pursuant to this section.]~~

2671 ~~[(6)]~~ (5) (a) ~~[Any person who knowingly or intentionally transports into a secure area~~
 2672 ~~of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony]~~
 2673 An actor who transports a firearm or other dangerous weapon or ammunition into a secure area
 2674 created under this section or a higher education secure area hearing room created under this
 2675 section may be punished under Section [76-8-311.2](#).

2676 (b) ~~[Any person violates Section [76-10-306](#)]~~ An actor who knowingly or intentionally
 2677 transports, possesses, distributes, or sells [any] an explosive in a secure area [of a facility] or a
 2678 higher education secure area hearing room created under this section may be punished under
 2679 Section [76-10-306](#).

2680 (c) It is a defense to a prosecution related to this section that the actor acted in
 2681 conformity with the facility's rule or policy established pursuant to this section.

2682 Section 49. Section **76-8-311.2** is enacted to read:

2683 **76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.**

2684 (1) (a) As used in this section:

2685 (i) "Correctional facility" means the same as that term is defined in Section [76-8-311.3](#).

2686 (ii) "Dangerous weapon" means the same as that term is defined in Section [76-10-501](#).

2687 (iii) "Firearm" means the same as that term is defined in Section [76-10-501](#).

2688 (iv) "Higher education secure area" means a higher education secure area hearing room
 2689 created under Section [76-8-311.1](#).

2690 (v) "Law enforcement facility" means the same as that term is defined in Section
 2691 [76-8-311.1](#).

2692 (vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2693 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2694 (2) An actor commits prohibited dangerous weapon or ammunition in a secure area if

2695 the actor knowingly or intentionally transports a firearm or other dangerous weapon or

2696 ammunition into:

2697 (a) a correctional facility;

2698 (b) a secure area created by the State Tax Commission;

2699 (c) a secure area in a law enforcement facility or a mental health facility; or

2700 (d) a higher education secure area.

2701 (3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of

2702 Subsection (2) is a third degree felony.

2703 (4) It is a defense to a prosecution under this section that the actor acted in conformity

2704 with the facility's rule or policy established under Section 76-8-311.1.

2705 Section 50. Section **76-8-311.3** is amended to read:

2706 **76-8-311.3. Establishment of prohibited item policy in a correctional or mental**
 2707 **health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.**

2708 (1) (a) As used in this section:

2709 [~~(a)~~] ~~"Contraband" means any item not specifically prohibited for possession by~~
 2710 ~~offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.]~~

2711 [~~(b)~~] (i) "Controlled substance" means [~~any~~] a substance defined as a controlled
 2712 substance under Title 58, Chapter 37, Utah Controlled Substances Act.

2713 [~~(c)~~] (ii) "Correctional facility" means:

2714 [~~(i)~~] (A) [~~any~~] a facility operated by or contracting with the Department of Corrections
 2715 to house [~~offenders~~] an offender in either a secure or nonsecure setting;

2716 [~~(ii)~~] (B) [~~any~~] a facility operated by a municipality or a county to house or detain
 2717 [~~criminal offenders~~] a criminal offender;

2718 [~~(iii)~~] (C) [~~any~~] a juvenile detention facility; [~~and~~] or

2719 [~~(iv)~~] (D) [~~any~~] a building or grounds appurtenant to [~~the~~] a facility or [~~lands~~] land
 2720 granted to the state, municipality, or county for use as a correctional facility.

2721 [~~(d)~~] (iii) "Dangerous weapon" means the same as that term is defined in Section

2722 76-10-501.

- 2723 (iv) "Electronic cigarette product" means the same as that term is defined in Section
 2724 76-10-101.
- 2725 (v) "Firearm" means the same as that term is defined in Section 76-10-501.
- 2726 ~~(e)~~ (vi) "Medicine" means ~~[any]~~ a prescription drug as defined in Title 58, Chapter
 2727 17b, Pharmacy Practice Act, but does not include ~~[any]~~ a controlled ~~[substances]~~ substance as
 2728 defined in Title 58, Chapter 37, Utah Controlled Substances Act.
- 2729 ~~(f)~~ (vii) "Mental health facility" means the same as that term is defined in Section
 2730 26B-5-301.
- 2731 ~~(g)~~ (viii) "Nicotine product" means the same as that term is defined in Section
 2732 76-10-101.
- 2733 ~~(h)~~ (ix) "Offender" means ~~[a person]~~ an individual in custody at a correctional
 2734 facility.
- 2735 ~~(i)~~ (x) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 2736 ~~(j)~~ (xi) "Tobacco product" means the same as that term is defined in Section
 2737 76-10-101.
- 2738 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 2739 (2) Notwithstanding Section 76-10-500, a correctional facility or a mental health
 2740 facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of
 2741 escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in
 2742 any quantity may be:
- 2743 (a) transported to or ~~upon~~ within a correctional facility or a mental health facility;
- 2744 (b) sold or given away at ~~[any]~~ a correctional facility or a mental health facility;
- 2745 (c) given to or used by ~~[any]~~ an offender at a correctional facility or a mental health
 2746 facility; or
- 2747 (d) knowingly or intentionally possessed at a correctional facility or a mental health
 2748 facility.
- 2749 (3) It is a defense to ~~[any]~~ a prosecution ~~[under]~~ related to this section ~~[if the accused~~
 2750 ~~is]~~ that the actor, in committing the act made criminal by this section with respect to:
- 2751 (a) a correctional facility operated by the Department of Corrections, acted in
 2752 conformity with departmental rule or policy;
- 2753 (b) a correctional facility operated by a municipality, acted in conformity with the

2754 policy of the municipality;

2755 (c) a correctional facility operated by a county, acted in conformity with the policy of
2756 the county; or

2757 (d) a mental health facility, acted in conformity with the policy of the mental health
2758 facility.

2759 ~~[(4) (a) An individual who transports to or upon a correctional facility, or into a secure
2760 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of
2761 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.]~~

2762 ~~[(b) An individual who provides or sells to any offender at a correctional facility, or
2763 any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous
2764 weapon, or implement of escape is guilty of a second degree felony.]~~

2765 ~~[(c) An offender who possesses at a correctional facility, or a detainee who possesses at
2766 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
2767 implement of escape is guilty of a second degree felony.]~~

2768 ~~[(d) An individual who, without the permission of the authority operating the
2769 correctional facility or the secure area of a mental health facility, knowingly possesses at a
2770 correctional facility or a secure area of a mental health facility any firearm, ammunition,
2771 dangerous weapon, or implement of escape is guilty of a third degree felony.]~~

2772 ~~[(e) An individual violates Section [76-10-306](#) who knowingly or intentionally
2773 transports, possesses, distributes, or sells any explosive in a correctional facility or mental
2774 health facility.]~~

2775 ~~[(5) (a) An individual is guilty of a third degree felony who, without the permission of
2776 the authority operating the correctional facility or secure area of a mental health facility,
2777 knowingly transports to or upon a correctional facility or into a secure area of a mental health
2778 facility any:]~~

2779 ~~[(i) spirituous or fermented liquor;]~~

2780 ~~[(ii) medicine, whether or not lawfully prescribed for the offender; or]~~

2781 ~~[(iii) poison in any quantity.]~~

2782 ~~[(b) An individual is guilty of a third degree felony who knowingly violates
2783 correctional or mental health facility policy or rule by providing or selling to any offender at a
2784 correctional facility or detainee within a secure area of a mental health facility any:]~~

2785 ~~[(i) spirituous or fermented liquor;]~~
2786 ~~[(ii) medicine, whether or not lawfully prescribed for the offender; or]~~
2787 ~~[(iii) poison in any quantity.]~~
2788 ~~[(c) An inmate is guilty of a third degree felony who, in violation of correctional or~~
2789 ~~mental health facility policy or rule, possesses at a correctional facility or in a secure area of a~~
2790 ~~mental health facility any:]~~
2791 ~~[(i) spirituous or fermented liquor;]~~
2792 ~~[(ii) medicine, other than medicine provided by the facility's health care providers in~~
2793 ~~compliance with facility policy; or]~~
2794 ~~[(iii) poison in any quantity.]~~
2795 ~~[(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or~~
2796 ~~indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product~~
2797 ~~to an offender, directly or indirectly:]~~
2798 ~~[(i) transports, delivers, or distributes any tobacco product, electronic cigarette product,~~
2799 ~~or nicotine product to an offender or on the grounds of any correctional facility;]~~
2800 ~~[(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another~~
2801 ~~person to transport any tobacco product, electronic cigarette product, or nicotine product to an~~
2802 ~~offender or on any correctional facility, if the person is acting with the mental state required for~~
2803 ~~the commission of an offense; or]~~
2804 ~~[(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic~~
2805 ~~cigarette product, or nicotine product in violation of this section to an offender or on the~~
2806 ~~grounds of any correctional facility.]~~
2807 ~~[(e) An individual is guilty of a class A misdemeanor who, without the permission of~~
2808 ~~the authority operating the correctional or mental health facility, fails to declare or knowingly~~
2809 ~~possesses at a correctional facility or in a secure area of a mental health facility any:]~~
2810 ~~[(i) spirituous or fermented liquor;]~~
2811 ~~[(ii) medicine; or]~~
2812 ~~[(iii) poison in any quantity.]~~
2813 ~~[(f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B~~
2814 ~~misdemeanor who, without the permission of the authority operating the correctional facility,~~
2815 ~~knowingly engages in any activity that would facilitate the possession of any contraband by an~~

2816 offender in a correctional facility.]

2817 ~~[(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic~~
2818 ~~cigarette product, or nicotine product take precedence over this Subsection (5)(f).]~~

2819 ~~[(g)] (4) (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged~~
2820 ~~under Section [76-8-311.4](#), [76-8-311.6](#), [76-8-311.7](#), [76-8-311.8](#), [76-8-311.9](#), or [76-8-311.10](#) for~~
2821 ~~a violation of a policy or rule created under this section.~~

2822 ~~(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells~~
2823 ~~an explosive in a correctional facility or a mental health facility may be punished under Section~~
2824 ~~[76-10-306](#).~~

2825 ~~(c) The possession, distribution, or use of a controlled substance at a correctional~~
2826 ~~facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter~~
2827 ~~37, Utah Controlled Substances Act.~~

2828 ~~(5) Exemptions may be granted for worship for Native American inmates pursuant to~~
2829 ~~Section [64-13-40](#).~~

2830 ~~[(6) The possession, distribution, or use of a controlled substance at a correctional~~
2831 ~~facility or in a secure area of a mental health facility shall be prosecuted in accordance with~~
2832 ~~Title 58, Chapter 37, Utah Controlled Substances Act.]~~

2833 ~~[(7)] (6) The [department] Department of Corrections shall make rules under Title~~
2834 ~~63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing~~
2835 ~~written notice to visitors that providing any tobacco product, electronic cigarette product, or~~
2836 ~~nicotine product to offenders is a class A misdemeanor.~~

2837 Section 51. Section **76-8-311.4** is enacted to read:

2838 **76-8-311.4. Prohibited item in correctional or mental health facility for use by**
2839 **offender or detainee.**

2840 (1) (a) As used in this section:

2841 (i) "Correctional facility" means the same as that term is defined in Section [76-8-311.3](#).

2842 (ii) "Dangerous weapon" means the same as that term is defined in Section [76-10-501](#).

2843 (iii) "Mental health facility" means the same as that term is defined in Section

2844 [76-8-311.3](#).

2845 (iv) "Offender" means the same as that term is defined in Section [76-8-311.3](#).

2846 (v) "Secure area" means the same as that term is defined in Section [76-8-311.1](#).

2847 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
2848 (2) An actor commits prohibited item in correctional or mental health facility for use
2849 by offender or detainee if the actor:
2850 (a) transports a dangerous weapon, ammunition, or implement of escape to or within a
2851 correctional facility, or into a secure area of a mental health facility, with the intent to provide
2852 or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape;
2853 or
2854 (b) provides or sells a dangerous weapon, ammunition, or implement of escape to:
2855 (i) an offender at a correctional facility; or
2856 (ii) a detainee at a secure area of a mental health facility.
2857 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second
2858 degree felony.
2859 (4) The defenses provided in Section 76-8-311.3 apply to this section.
2860 Section 52. Section **76-8-311.6** is enacted to read:
2861 **76-8-311.6. Possession of prohibited item by offender or detainee in correctional**
2862 **or mental health facility.**
2863 (1) (a) As used in this section:
2864 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
2865 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.
2866 (iii) "Mental health facility" means the same as that term is defined in Section
2867 76-8-311.3.
2868 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.
2869 (v) "Secure area" means the same as that term is defined in Section 76-8-311.1.
2870 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
2871 (2) An actor commits possession of prohibited item by offender or detainee in
2872 correctional or mental health facility if the actor:
2873 (a) (i) is an offender at a correctional facility; or
2874 (ii) is a detainee at a mental health facility; and
2875 (b) possesses a dangerous weapon, ammunition, or an implement of escape.
2876 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a second
2877 degree felony.

2878 (4) The defenses provided in Section 76-8-311.3 apply to this section.

2879 Section 53. Section 76-8-311.7 is enacted to read:

2880 **76-8-311.7. Possession of prohibited item in correctional facility or secure area of**
2881 **mental health facility.**

2882 (1) (a) As used in this section:

2883 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

2884 (ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

2885 (iii) "Mental health facility" means the same as that term is defined in Section

2886 76-8-311.3.

2887 (iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

2888 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2889 (2) An actor commits possession of prohibited item in correctional facility or secure
2890 area of mental health facility if the actor, without the permission of the authority operating the
2891 correctional facility or the secure area of a mental health facility, knowingly possesses a
2892 dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure
2893 area of a mental health facility.

2894 (3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of
2895 Subsection (2) is a third degree felony.

2896 (4) The defenses provided in Section 76-8-311.3 apply to this section.

2897 Section 54. Section 76-8-311.8 is enacted to read:

2898 **76-8-311.8. Prohibited substance in correctional or mental health facility.**

2899 (1) (a) As used in this section:

2900 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

2901 (ii) "Medicine" means the same as that term is defined in Section 76-8-311.3.

2902 (iii) "Mental health facility" means the same as that term is defined in Section

2903 76-8-311.3.

2904 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

2905 (v) "Prohibited substance" means:

2906 (A) spirituous or fermented liquor;

2907 (B) medicine, whether or not lawfully prescribed for an offender or a detainee; or

2908 (C) poison in any quantity.

2909 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
2910 (2) An actor commits prohibited substance in a correctional or mental health facility if
2911 the actor:

2912 (a) without the permission of the authority operating the correctional facility or secure
2913 area of a mental health facility:

2914 (i) knowingly transports a prohibited substance to or within a correctional facility or
2915 into a secure area of a mental health facility; or

2916 (ii) fails to declare or knowingly possesses a prohibited substance at a correctional
2917 facility or in a secure area of a mental health facility;

2918 (b) knowingly violates correctional or mental health facility policy or rule by providing
2919 or selling a prohibited substance to an offender at a correctional facility or a detainee within a
2920 secure area of a mental health facility; or

2921 (c) (i) is a detainee in a mental health facility or an offender; and

2922 (ii) in violation of correctional or mental health facility policy or rule, possesses at a
2923 correctional facility or in a secure area of a mental health facility a prohibited substance other
2924 than medicine provided by the facility's health care providers in compliance with facility
2925 policy.

2926 (3) (a) Except as provided in Subsection (4), a violation of Subsection (2)(a)(i), (2)(b),
2927 or (2)(c) is a third degree felony.

2928 (b) Except as provided in Subsection (4), a violation of Subsection (2)(a)(ii) is a class
2929 A misdemeanor.

2930 (4) The defenses provided in Section 76-8-311.3 apply to this section.

2931 Section 55. Section **76-8-311.9** is enacted to read:

2932 **76-8-311.9. Prohibited tobacco, electronic cigarette, or nicotine product in a**
2933 **correctional facility.**

2934 (1) (a) As used in this section:

2935 (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

2936 (ii) "Electronic cigarette product" means the same as that term is defined in Section
2937 76-10-101.

2938 (iii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

2939 (iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

- 2940 (v) "Tobacco product" means the same as that term is defined in Section 76-10-101.
- 2941 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 2942 (2) An actor commits prohibited tobacco, electronic cigarette, or nicotine product in a
- 2943 correctional facility if the actor, with the intent to directly or indirectly provide or sell a tobacco
- 2944 product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:
- 2945 (a) transports, delivers, or distributes a tobacco product, electronic cigarette product, or
- 2946 nicotine product to an offender or on the grounds of a correctional facility;
- 2947 (b) solicits, requests, commands, coerces, encourages, or intentionally aids another
- 2948 individual to transport a tobacco product, electronic cigarette product, or nicotine product to an
- 2949 offender or on the grounds of a correctional facility, if the other individual is acting with the
- 2950 mental state required for the commission of an offense; or
- 2951 (c) facilitates, arranges, or causes the transport of a tobacco product, electronic
- 2952 cigarette product, or nicotine product in violation of this section or Section 76-8-311.3 to an
- 2953 offender or on the grounds of a correctional facility.
- 2954 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class A
- 2955 misdemeanor.
- 2956 (4) The defenses provided in Section 76-8-311.3 apply to this section.
- 2957 (5) In accordance with Section 76-10-311.3, the Department of Corrections shall make
- 2958 rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines
- 2959 for providing written notice to visitors that providing a tobacco product, electronic cigarette
- 2960 product, or nicotine product to an offender is a class A misdemeanor.
- 2961 Section 56. Section **76-8-311.10** is enacted to read:
- 2962 **76-8-311.10. Possession of contraband in a correctional facility.**
- 2963 (1) (a) As used in this section:
- 2964 (i) "Contraband" means an item not specifically prohibited for possession by an
- 2965 offender under this section or Section 76-8-311.3, 76-8-311.4, 76-8-311.6, 76-8-311.7,
- 2966 76-8-311.8, or 76-8-311.9.
- 2967 (ii) "Correctional facility" means the same as that term is defined in Section
- 2968 76-8-311.3.
- 2969 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 2970 (2) An actor commits possession of contraband in a correctional facility if the actor,

2971 without the permission of the authority operating a correctional facility, knowingly engages in
2972 an activity that would facilitate the possession of contraband by an offender in the correctional
2973 facility.

2974 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B
2975 misdemeanor.

2976 (4) (a) The possession, distribution, or use of a controlled substance at a correctional
2977 facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled
2978 Substances Act.

2979 (b) The provisions of Section 76-8-311.9 take precedence over this section.

2980 (c) The defenses provided in Section 76-8-311.3 apply to this section.

2981 Section 57. Section 76-8-312 is amended to read:

2982 **76-8-312. Unlawful absence after pretrial release.**

2983 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

2984 (2) [A person is guilty of an offense when having] An actor commits unlawful absence
2985 after pretrial release if the actor:

2986 (a) has been [released on bail or on his own recognizance] granted pretrial release by
2987 court order or by other lawful authority upon condition that [he] the actor subsequently appear
2988 personally upon a charge of an offense[; he]; and

2989 (b) fails without just cause to appear at the time and place [which] that have been
2990 lawfully designated for [his] the actor's appearance.

2991 [~~(2) An offense under this section is a felony of the third degree when the offense~~
2992 ~~charged is a felony, a class B misdemeanor when the offense charged is a misdemeanor, and an~~
2993 ~~infraction when the offense charged is an infraction.]~~

2994 (3) A violation of Subsection (2) is:

2995 (a) a third degree felony if the offense for which the actor failed to appear is a felony;

2996 (b) a class B misdemeanor if the offense for which the actor failed to appear is a
2997 misdemeanor; or

2998 (c) an infraction if the offense for which the actor failed to appear is an infraction.

2999 Section 58. Section 76-8-313 is amended to read:

3000 **76-8-313. Threatened or attempted assault on an elected official.**

3001 (1) (a) As used in this section, "elected official" means:

- 3002 (i) an elected official of the state, county, or city;
- 3003 (ii) an immediate family member of an individual described in Subsection (1)(a)(i);
- 3004 (iii) a temporary judge appointed to fill a vacant judicial position;
- 3005 (iv) a judge not yet retained by a retention election;
- 3006 (v) a member of a school board; or
- 3007 (vi) an individual appointed to fill a vacant position of an individual described in

3008 Subsection (1)(a)(i).

3009 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3010 (2) [A person] An actor commits threatened or attempted assault on an elected official
3011 [when he] if the actor attempts or threatens, irrespective of a showing of immediate force or
3012 violence, to inflict bodily injury [to the] on an elected official with the intent to impede,
3013 intimidate, or interfere with the elected official in the performance of [his] the elected official's
3014 official duties or with the intent to retaliate against the elected official because of the
3015 performance of [his] the elected official's official duties.

3016 (3) (a) Except as provided by Subsection (3)(b), a violation of Subsection (2) is a class
3017 B misdemeanor.

3018 (b) A violation of Subsection (2) is a third degree felony if:

3019 (i) the actor attempts to inflict bodily injury; or

3020 (ii) the elected official receives bodily injury.

3021 Section 59. Section **76-8-316** is amended to read:

3022 **76-8-316. Threat with intent to impede, intimidate, interfere, or retaliate against**
3023 **a judge or member of the Board of Pardons and Parole or acting against a family**
3024 **member of a judge or a member of the Board of Pardons and Parole.**

3025 (1) (a) As used in this section:

3026 [(a)] (i) "Board member" means an appointed member of the Board of Pardons and
3027 Parole.

3028 [(b)] (ii) "Family member" means [parents,] a parent, spouse, surviving spouse,
3029 [children, and siblings] child, or sibling of a judge or board member.

3030 [(c)] (iii) "Judge" means [judges of all courts of record and courts not of record and
3031 court commissioners.];

3032 (A) a judge of a court of record;

3033 (B) a judge of a court not of record; or

3034 (C) a court commissioner.

3035 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3036 (2) [A person is guilty of a third degree felony if the person] An actor commits threat
3037 with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or
3038 family member if the actor threatens to assault, kidnap, or murder a judge, [a family member of
3039 a judge,] a board member, or a family member [of a board member] with the intent to impede,
3040 intimidate, or interfere with the judge or board member while engaged in the performance of
3041 the judge's or board member's official duties or with the intent to retaliate against the judge or
3042 board member on account of the performance of those official duties.

3043 (3) A violation of Subsection (2) is a third degree felony.

3044 ~~[(3) A person is guilty of a second degree felony if the person commits an assault on a~~
3045 ~~judge, a family member of a judge, a board member, or a family member of a board member~~
3046 ~~with the intent to impede, intimidate, or interfere with the judge or board member while~~
3047 ~~engaged in the performance of the judge's or board member's official duties, or with the intent~~
3048 ~~to retaliate against the judge or board member on account of the performance of those official~~
3049 ~~duties.]~~

3050 ~~[(4) A person is guilty of a first degree felony if the person commits aggravated assault~~
3051 ~~on a judge, a family member of a judge, a board member, or a family member of a board~~
3052 ~~member with the intent to impede, intimidate, or interfere with the judge or board member~~
3053 ~~while engaged in the performance of the judge's or board member's official duties or with the~~
3054 ~~intent to retaliate against the judge or board member on account of the performance of those~~
3055 ~~official duties.]~~

3056 ~~[(5) A person is guilty of a first degree felony if the person commits attempted murder~~
3057 ~~on a family member of a judge or a family member of a board member with the intent to~~
3058 ~~impede, intimidate, or interfere with the judge or board member while engaged in the~~
3059 ~~performance of the judge's or board member's official duties or with the intent to retaliate~~
3060 ~~against the judge or board member on account of the performance of those official duties.]~~

3061 ~~[(6) A member of the Board of Pardons and Parole is an executive officer for purposes~~
3062 ~~of Subsection [76-5-202\(2\)\(a\)\(xiii\)](#).]~~

3063 Section 60. Section **76-8-316.2** is enacted to read:

3064 76-8-316.2. Assault with intent to impede, intimidate, interfere, or retaliate
3065 **against a judge or member of the Board of Pardons and Parole or acting against a family**
3066 **member of a judge or a member of the Board of Pardons and Parole.**

3067 (1) (a) As used in this section:

3068 (i) "Board member" means the same as that term is defined in Section 76-8-316.

3069 (ii) "Family member" means the same as that term is defined in Section 76-8-316.

3070 (iii) "Judge" means the same as that term is defined in Section 76-8-316.

3071 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3072 (2) An actor commits assault with intent to impede, intimidate, interfere, or retaliate
3073 against a judge, board member, or family member if the actor commits an assault on a judge, a
3074 board member, or a family member with the intent to impede, intimidate, or interfere with the
3075 judge or board member while engaged in the performance of the judge's or board member's
3076 official duties, or with the intent to retaliate against the judge or board member on account of
3077 the performance of those official duties.

3078 (3) A violation of Subsection (2) is a second degree felony.

3079 Section 61. Section **76-8-316.4** is enacted to read:

3080 76-8-316.4. Aggravated assault with intent to impede, intimidate, interfere, or
3081 **retaliate against a judge or member of the Board of Pardons and Parole or acting against**
3082 **a family member of a judge or a member of the Board of Pardons and Parole.**

3083 (1) (a) As used in this section:

3084 (i) "Board member" means the same as that term is defined in Section 76-8-316.

3085 (ii) "Family member" means the same as that term is defined in Section 76-8-316.

3086 (iii) "Judge" means the same as that term is defined in Section 76-8-316.

3087 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3088 (2) An actor commits aggravated assault with intent to impede, intimidate, interfere, or
3089 retaliate against a judge, board member, or family member if the actor commits aggravated
3090 assault on a judge, a board member, or a family member with the intent to impede, intimidate,
3091 or interfere with the judge or board member while engaged in the performance of the judge's or
3092 board member's official duties, or with the intent to retaliate against the judge or board member
3093 on account of the performance of those official duties.

3094 (3) A violation of Subsection (2) is a first degree felony.

3095 Section 62. Section **76-8-316.6** is enacted to read:

3096 **76-8-316.6. Attempted murder with intent to impede, intimidate, interfere, or**
 3097 **retaliate against a judge or member of the Board of Pardons and Parole or acting against**
 3098 **a family member of a judge or a member of the Board of Pardons and Parole.**

3099 (1) (a) As used in this section:

3100 (i) "Board member" means the same as that term is defined in Section [76-8-316](#).

3101 (ii) "Family member" means the same as that term is defined in Section [76-8-316](#).

3102 (iii) "Judge" means the same as that term is defined in Section [76-8-316](#).

3103 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3104 (2) An actor commits attempted murder with intent to impede, intimidate, interfere, or
 3105 retaliate against a judge, board member, or family member if the actor commits attempted
 3106 murder on a judge, a board member, or a family member with the intent to impede, intimidate,
 3107 or interfere with the judge or board member while engaged in the performance of the judge's or
 3108 board member's official duties, or with the intent to retaliate against the judge or board member
 3109 on account of the performance of those official duties.

3110 (3) A violation of Subsection (2) is a first degree felony.

3111 (4) A member of the Board of Pardons and Parole is an executive officer for purposes
 3112 of Subsection [76-5-202\(2\)\(a\)\(xiii\)](#).

3113 Section 63. Section **76-8-317** is amended to read:

3114 **76-8-317. Refusal to comply with an order to evacuate or order issued in a local**
 3115 **or state emergency.**

3116 (1) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3117 (2) ~~[A person may not refuse to]~~ An actor commits refusal to comply with an order to
 3118 evacuate ~~or order issued in a local or state emergency if the actor:~~

3119 (a) receives notice of:

3120 (i) an order to evacuate issued under ~~[this chapter or refuse to comply with any other]~~
 3121 Title 53, Chapter 2a, Emergency Management Act; or

3122 (ii) an order issued:

3123 (A) by the governor in a state of an emergency under Section [53-2a-204](#); or

3124 (B) by a chief executive officer in a local emergency under Section [53-2a-205](#)~~], if~~
 3125 notice of the order has been given to that person.]; and

3126 (b) refuses to comply with the order described in Subsection (2)(a).
3127 ~~[(2)] (3) [A person who violates this section is guilty of]~~ A violation of Subsection (2)
3128 is a class B misdemeanor.

3129 Section 64. Section **76-8-318** is amended to read:

3130 **76-8-318. Assault or threat of violence against child welfare worker.**

3131 (1) (a) As used in this section:

3132 ~~[(a)] (i)~~ "Assault" means ~~[the same as that term is defined in]~~ an offense under Section
3133 76-5-102.

3134 ~~[(b)] (ii)~~ "Child welfare worker" means an employee of the Division of Child and
3135 Family Services created in Section 80-2-201.

3136 ~~[(c)] (iii)~~ "Threat of violence" means ~~[the same as that term is defined in]~~ an offense
3137 under Section 76-5-107.

3138 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3139 (2) ~~[An individual who commits an assault or threat of violence against a child welfare~~
3140 ~~worker is guilty of a class A misdemeanor]~~ An actor commits assault or threat of violence
3141 against child welfare worker if:

3142 (a) the ~~[individual]~~ actor is not:

3143 (i) a prisoner or an individual detained under Section 77-7-15; or

3144 (ii) a minor in the custody of or receiving services from a division within the
3145 Department of Health and Human Services;

3146 (b) the ~~[individual]~~ actor knew that the victim was a child welfare worker; and

3147 (c) the child welfare worker was acting within the scope of the child welfare worker's
3148 authority at the time of the assault or threat of violence.

3149 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
3150 A misdemeanor.

3151 ~~(b) [An individual who violates this section is guilty of]~~ A violation of Subsection (2)
3152 is a third degree felony if the [individual] actor:

3153 ~~[(a)] (i)~~ causes substantial bodily injury~~[, as defined in Section 76-1-101.5];~~ and

3154 ~~[(b)] (ii)~~ acts intentionally or knowingly.

3155 Section 65. Section **76-8-319**, which is renumbered from Section 76-8-311.5 is
3156 renumbered and amended to read:

3157 ~~[76-8-311.5].~~ 76-8-319. Aiding or concealing an adjudicated minor --
3158 Trespass of a secure care facility -- Criminal penalties.
3159 (1) (a) As used in this section:
3160 ~~[(a)]~~ (i) "Abscond from a facility" means an adjudicated minor:
3161 (A) leaves a facility without permission; or
3162 (B) fails to return at a prescribed time.
3163 (ii) "Abscond from supervision" means an adjudicated minor:
3164 (A) changes the adjudicated minor's residence from the residence that the adjudicated
3165 minor reported to the division as the adjudicated minor's correct address to another residence,
3166 without notifying the division or obtaining permission; or
3167 (B) for the purpose of avoiding supervision:
3168 (I) hides at a different location from the adjudicated minor's reported residence; or
3169 (II) leaves the adjudicated minor's reported residence.
3170 (iii) "Adjudicated minor" means the same as the term "minor" is defined in Section
3171 80-6-501.
3172 (iv) "Division" means the Division of Juvenile Justice Services created in Section
3173 80-5-103.
3174 (v) "Facility" means the same as the term "detention facility" is defined in Section
3175 80-1-102.
3176 ~~[(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.]~~
3177 ~~[(c)]~~ (vi) "Secure care" means the same as that term is defined in Section 80-1-102.
3178 ~~[(d)]~~ (vii) "Secure care facility" means the same as that term is defined in Section
3179 80-1-102.
3180 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
3181 ~~[(2) An individual who commits any of the following offenses is guilty of a class A~~
3182 ~~misdemeanor:]~~
3183 ~~[(a) entering, or attempting to enter, a building or enclosure appropriated to the use of~~
3184 ~~juvenile offenders, without permission;]~~
3185 ~~[(b) entering any premises belonging to a secure care facility and committing or~~
3186 ~~attempting to commit a trespass or damage on the premises of a secure care facility; or]~~
3187 ~~[(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a~~

3188 juvenile offender in a secure care facility.]

3189 ~~[(3)]~~ (2) An ~~[individual is guilty of a third degree felony who]~~ an actor commits aiding
3190 or concealing an adjudicated minor if the actor:

3191 (a) knowingly harbors or conceals ~~[a juvenile offender]~~ an adjudicated minor who has:

3192 (i) escaped from secure care; or

3193 (ii) ~~[as described in Subsection (4);]~~ absconded from:

3194 (A) a facility or supervision; or

3195 (B) supervision of the division; or

3196 (b) willfully aided or assisted ~~[a juvenile offender]~~ an adjudicated minor who has been
3197 lawfully committed to a secure care facility in escaping or attempting to escape from the secure
3198 care facility.

3199 ~~[(4) As used in this section:]~~

3200 ~~[(a) a juvenile offender absconds from a facility under this section when the juvenile~~
3201 ~~offender:]~~

3202 ~~[(i) leaves the facility without permission; or]~~

3203 ~~[(ii) fails to return at a prescribed time.]~~

3204 ~~[(b) A juvenile offender absconds from supervision when the juvenile offender:]~~

3205 ~~[(i) changes the juvenile offender's residence from the residence that the juvenile~~
3206 ~~offender reported to the division as the juvenile offender's correct address to another residence;~~
3207 ~~without notifying the division or obtaining permission; or]~~

3208 ~~[(ii) for the purpose of avoiding supervision:]~~

3209 ~~[(A) hides at a different location from the juvenile offender's reported residence; or]~~

3210 ~~[(B) leaves the juvenile offender's reported residence.]~~

3211 (3) A violation of Subsection (2) is a third degree felony.

3212 Section 66. Section **76-8-320** is enacted to read:

3213 **76-8-320. Trespass of a secure care facility.**

3214 (1) (a) As used in this section:

3215 (i) "Juvenile offender" means the same as that term is defined in Section [76-8-311.5](#).

3216 (ii) "Secure care facility" means the same as that term is defined in Section [76-8-311.5](#).

3217 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3218 (2) An actor commits trespass of a secure care facility if the actor:

3219 (a) without permission, enters or attempts to enter a building or enclosure appropriated
 3220 to the use of juvenile offenders;

3221 (b) (i) enters any premises belonging to a secure care facility; and

3222 (ii) commits or attempts to commit a trespass or damage on the premises of the secure
 3223 care facility; or

3224 (c) willfully annoys or disturbs the peace and quiet of:

3225 (i) a secure care facility; or

3226 (ii) of a juvenile offender in a secure care facility.

3227 (3) A violation of Subsection (2) is a class A misdemeanor.

3228 Section 67. Section **76-8-402** is amended to read:

3229 **76-8-402. Misusing public money or public property -- Disqualification from**
 3230 **office.**

3231 (1) (a) As used in this section, "authorized personal use" means:

3232 ~~[(a)]~~ (i) the use of public property, for a personal matter, by ~~[a]~~ an actor who is a public
 3233 servant if:

3234 ~~[(i)]~~ (A) the ~~[public servant]~~ actor is authorized to use or possess the public property to
 3235 fulfill the ~~[public servant's]~~ actor's duties as a public servant;

3236 ~~[(ii)]~~ (B) the primary purpose of the ~~[public servant]~~ actor using or possessing the
 3237 public property is to fulfill the ~~[public servant's]~~ actor's duties as a public servant;

3238 ~~[(iii)]~~ (C) at the time the ~~[public servant]~~ actor uses the public property for a personal
 3239 matter, a written policy of the ~~[public servant's]~~ actor's public entity is in effect that authorizes
 3240 the ~~[public servant]~~ actor to use or possess the public property for personal use in addition to
 3241 the primary purpose of fulfilling the ~~[public servant's]~~ actor's duties as a public servant; and

3242 ~~[(iv)]~~ (D) the ~~[public servant]~~ actor uses and possesses the public property in a lawful
 3243 manner and in accordance with the policy described in Subsection ~~[(1)(a)(iii);]~~ (1)(a)(i)(C); or

3244 ~~[(b)]~~ (ii) incidental or de minimus use of public property for a personal matter by ~~[a~~
 3245 ~~public servant,]~~ an actor who is a public servant if:

3246 ~~[(i)]~~ (A) the value provided to the ~~[public servant's]~~ actor's public entity by the ~~[public~~
 3247 ~~servant's]~~ actor's use or possession of the public property for a public purpose substantially
 3248 outweighs the personal benefit received by the ~~[employee]~~ actor from the incidental use of the
 3249 public property for a personal matter; and

- 3250 ~~[(it)]~~ (B) the incidental or de minimus use of the public property for a personal matter
3251 is not prohibited by law or by the ~~[public servant's]~~ actor's public entity.
- 3252 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 3253 ~~(2)~~ [It is unlawful for a public servant to] An actor commits misusing public money or
3254 public property if the actor is a public servant and knowingly:
- 3255 (a) ~~[appropriate]~~ appropriates public money to the ~~[public servant's]~~ actor's own use or
3256 benefit or to the use or benefit of another person without authority of law;
- 3257 (b) ~~[loan or transfer]~~ loans or transfers public money without authority of law;
- 3258 (c) ~~[fail]~~ fails to keep public money in the ~~[public servant's]~~ actor's possession until
3259 disbursed by authority of law;
- 3260 (d) ~~[deposit]~~ deposits public money in a bank or with another person in violation of the
3261 written policy of the ~~[public servant's]~~ actor's public entity or the requirements of law;
- 3262 (e) ~~[keep]~~ keeps a false account or ~~[make]~~ makes a false entry or erasure in an account
3263 of, or relating to, public money;
- 3264 (f) fraudulently ~~[alter, falsify, conceal, or destroy]~~ alters, falsifies, conceals, or destroys
3265 an account described in Subsection (2)(e);
- 3266 (g) ~~[refuse or omit]~~ refuses or omits to pay over, on demand, any public money in the
3267 ~~[public servant's]~~ actor's custody or control, upon the presentation of a draft, order, or warrant
3268 drawn upon the public money by competent authority;
- 3269 (h) ~~[omit]~~ omits to transfer public money when the transfer is required by law;
- 3270 (i) ~~[omit or refuse]~~ omits or refuses to pay over, to ~~[any]~~ an officer or person
3271 authorized by law to receive public money, public money received by the ~~[public servant]~~ actor
3272 under any duty imposed on the ~~[public servant]~~ actor by law;
- 3273 (j) ~~[damage or dispose]~~ damages or disposes of public property in violation of the
3274 written policy of the ~~[public servant's]~~ actor's public entity or the requirements of law;
- 3275 (k) ~~[obtain or exercise]~~ obtains or exercises unauthorized control of public property
3276 with the intent to deprive the owner of possession of the public property;
- 3277 (l) ~~[obtain or exercise]~~ obtains or exercises unauthorized control of public property
3278 with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of
3279 the public property;
- 3280 (m) ~~[appropriate]~~ appropriates public property to the ~~[public servant's]~~ actor's own use

3281 or benefit or to the use or benefit of another person without authority of law;

3282 (n) [~~loan or transfer~~] loans or transfers public property without authority of law; or

3283 (o) [~~fail~~] fails to keep public property in the [~~public servant's~~] actor's possession until

3284 returned to the property owner[;] or disposed of or relinquished[;] in accordance with the

3285 written policy of the [~~public servant's~~] actor's public entity and the requirements of law.

3286 (3) (a) Except as provided [~~in Subsection (4)~~] by Subsection (3)(b), a violation of

3287 Subsections (2)(a) through (i) is a third degree felony [~~of the third degree~~].

3288 [~~(4)~~] (b) A violation of Subsections (2)(a) through (i) is a second degree felony [~~of the~~

3289 second degree] if:

3290 [~~(a)~~] (i) the value of the public money exceeds \$5,000;

3291 [~~(b)~~] (ii) the amount of the false account exceeds \$5,000;

3292 [~~(c)~~] (iii) the amount falsely entered exceeds \$5,000;

3293 [~~(d)~~] (iv) the amount that is the difference between the original amount and the

3294 fraudulently altered amount exceeds \$5,000; or

3295 [~~(e)~~] (v) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the

3296 account exceeds \$5,000.

3297 [~~(5)~~] (c) A violation of Subsection (2)(j) is:

3298 [~~(a)~~] (i) a class B misdemeanor[;] if the cost to repair or replace the public property is

3299 less than \$500;

3300 [~~(b)~~] (ii) a class A misdemeanor[;] if the cost to repair or replace the public property is

3301 \$500 or more, but less than \$1,500;

3302 [~~(c)~~] (iii) a third degree felony [~~of the third degree;~~] if the cost to repair or replace the

3303 public property is \$1,500 or more, but less than \$5,000; or

3304 [~~(d)~~] (iv) a second degree felony [~~of the second degree;~~] if the cost to repair or replace

3305 the public property is \$5,000 or more.

3306 [~~(6)~~] (d) A violation of Subsection (2)(k), (m), (n), or (o) is:

3307 [~~(a)~~] (i) a class B misdemeanor[;] if the value of the public property is less than \$500;

3308 [~~(b)~~] (ii) a class A misdemeanor[;] if the value of the public property is \$500 or more,

3309 but less than \$1,500;

3310 [~~(c)~~] (iii) a third degree felony [~~of the third degree;~~] if the value of the public property

3311 is \$1,500 or more, but less than \$5,000; or

3312 ~~[(d)]~~ (iv) a second degree felony ~~[of the second degree,]~~ if the value of the public
3313 property is \$5,000 or more.

3314 ~~[(7)]~~ (e) A violation of Subsection (2)(l) is:

3315 ~~[(a)]~~ (i) a class C misdemeanor~~;~~ if the value of the public property is less than \$500;

3316 ~~[(b)]~~ (ii) a class B misdemeanor~~;~~ if the value of the public property is \$500 or more,
3317 but less than \$1,500;

3318 ~~[(c)]~~ (iii) a class A misdemeanor~~;~~ if the value of the public property is \$1,500 or
3319 more, but less than \$5,000; or

3320 ~~[(d)]~~ (iv) a third degree felony ~~[of the third degree,]~~ if the value of the public property
3321 is \$5,000 or more.

3322 ~~[(8) In addition to the penalty described in Subsections (3) through (7), a public officer~~
3323 ~~who is convicted of a felony violation of Subsection (2):]~~

3324 ~~[(a) is subject to the penalties described in Section 76-8-404, and]~~

3325 ~~[(b) may not disburse public funds or access public accounts.]~~

3326 ~~[(9) (a) A public servant is not guilty of a violation of Subsections (2)(j) through (o)]~~
3327 ~~[for authorized personal use of public property].~~

3328 ~~[(10)]~~ (4) It is not a defense to a violation of Subsection (2) that:

3329 (a) subsequent to the violation, a public entity modifies or adopts a policy or law, or
3330 takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a
3331 violation; or

3332 (b) a written policy of the ~~[public servant's]~~ actor's public entity permits private use of
3333 the public property if it is proven, beyond a reasonable doubt, that the ~~[public servant]~~ actor did
3334 not comply with the written policy.

3335 (5) Subsections (2)(j) through (2)(o) do not apply to the authorized personal use of
3336 public property.

3337 (6) In addition to the punishment described in Subsection (3), an actor who:

3338 (a) is convicted of a felony offense under this section may not disburse public funds or
3339 access public accounts; or

3340 (b) is a public officer and is convicted of a felony offense under this section is
3341 disqualified from holding public office if:

3342 (i) regardless of whether the public officer receives, safekeeps, transfers, disburses, or

3343 has a fiduciary relationship with public money, the public officer makes a profit from or out of
 3344 public money or public property; or

3345 (ii) the public officer uses public money or public property in a manner or for a
 3346 purpose not authorized by law.

3347 Section 68. Section **76-8-403** is amended to read:

3348 **76-8-403. Failure to keep and pay over public money.**

3349 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3350 (2) Except as otherwise provided in Subsection [76-8-402(4), a person who]

3351 76-8-402(3)(b), an actor commits failure to keep and pay over public money if the actor:

3352 (a) receives, safekeeps, transfers, or disburses public money [who]; and

3353 (b) neglects or fails to keep and pay over the public money in the manner prescribed by
 3354 law [is guilty of a felony of the third degree].

3355 (3) A violation of Subsection (2) is a third degree felony.

3356 Section 69. Section **76-8-405** is amended to read:

3357 **76-8-405. Failure to pay over a fine, forfeiture, or fee.**

3358 [Every public officer who]

3359 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3360 (2) An actor commits failure to pay over a fine, forfeiture, or fee if the actor:

3361 (a) is a public officer;

3362 (b) receives any fine, forfeiture, or fee; and

3363 (c) refuses or neglects to pay [it] over the fine, forfeiture, or fee within the time
 3364 prescribed by law [is guilty of a class B misdemeanor].

3365 (3) A violation of Subsection (2) is a class B misdemeanor.

3366 Section 70. Section **76-8-406** is amended to read:

3367 **76-8-406. Obstructing the collection of revenue.**

3368 [Every person who]

3369 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3370 (2) An actor commits obstructing the collection of revenue if the actor willfully

3371 obstructs or hinders [any] a public officer who is empowered by law to collect revenue, taxes,

3372 or other sums of money from collecting [any] revenue, taxes, or other sums of money in which

3373 [the people of this state are interested, and which such officer is by law empowered to collect,

3374 ~~is guilty of a class B misdemeanor]~~ this state is interested.

3375 (3) A violation of Subsection (2) is a class B misdemeanor.

3376 Section 71. Section ~~76-8-407~~ is amended to read:

3377 **76-8-407. Refusing to give accurate tax assessment information.**

3378 ~~[Every person who]~~

3379 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3380 (2) An actor commits refusing to give accurate tax assessment information if the actor:

3381 (a) unlawfully refuses, upon demand, to give to [any] a county assessor or deputy
3382 county assessor a list of [his] the actor's property subject to taxation, or to swear to such list[;];
3383 or [who]

3384 (b) gives a false name, or fraudulently refuses to give [his] the actor's true name when
3385 demanding by the county assessor or deputy county assessor in the discharge of [his] the
3386 assessor's official duties[; is guilty of a class B misdemeanor].

3387 (3) A violation of Subsection (2) is a class B misdemeanor.

3388 Section 72. Section ~~76-8-408~~ is amended to read:

3389 **76-8-408. Giving a false tax receipt or failing to give a receipt.**

3390 ~~[Every person who]~~

3391 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3392 (2) An actor commits giving a false tax receipt or failing to give a receipt if the actor:

3393 (a) uses or gives [any] a receipt, except that prescribed by law, as evidence of the
3394 payment for [any] a tax or license of any kind[;]; or [who]

3395 (b) receives payment for the tax or license without delivering the receipt prescribed by
3396 law[; is guilty of a class B misdemeanor].

3397 (3) A violation of Subsection (2) is a class B misdemeanor.

3398 Section 73. Section ~~76-8-409~~ is amended to read:

3399 **76-8-409. Refusing to give a tax assessor or tax or license fee collector a list of**
3400 **employees.**

3401 ~~[Every person who, when requested by the assessor or collector of taxes or license~~
3402 ~~fees,]~~

3403 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3404 (2) An actor commits refusing to give a tax assessor or tax or license fee collector a list

3405 of employees if the actor refuses to give [to] the assessor or collector the name and residence of
3406 each [person in his employ, or to give the assessor or collector access to the building or place
3407 of employment, is guilty of a class B misdemeanor.] individual in the actor's employ when
3408 requested by the assessor or collector.

3409 (3) A violation of Subsection (2) is a class B misdemeanor.

3410 Section 74. Section **76-8-409.2** is enacted to read:

3411 **76-8-409.2. Denying a tax assessor or tax or license fee collector access to a**
3412 **building or place of employment.**

3413 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3414 (2) An actor commits denying a tax assessor or tax or license fee collector access to a
3415 building or place of employment if the actor refuses to give the assessor or collector access to
3416 the building or place of employment when access is requested by the assessor or collector.

3417 (3) A violation of Subsection (2) is a class B misdemeanor.

3418 Section 75. Section **76-8-410** is amended to read:

3419 **76-8-410. Doing business without a license.**

3420 [Every person who]

3421 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3422 (2) An actor commits doing business without a license if the actor commences or
3423 carries on [any] a business, trade, profession, or calling, for [the transaction or carrying on of]
3424 which a license is required by [any] law, or by [any] county, city, or town ordinance, without
3425 [taking out the] obtaining the required license [required by law or ordinance is guilty of a class
3426 B misdemeanor].

3427 (3) A violation of Subsection (2) is a class B misdemeanor.

3428 Section 76. Section **76-8-411** is amended to read:

3429 **76-8-411. Trafficking in warrants.**

3430 [No state,]

3431 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3432 (2) An actor commits trafficking in warrants if the actor:

3433 (a) is a state, county, city, town, or district officer; and

3434 (b) [shall, either directly or indirectly, contract for or purchase any] directly or
3435 indirectly contracts for or purchases a warrant or order issued by the state, county, city, town,

3436 or district of which ~~[he]~~ the actor is an officer, at any discount whatever upon the sum due on
3437 the warrant or order~~[-and, if any state, county, city, town, or district officer shall so contract for~~
3438 ~~or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor].~~

3439 (3) A violation of Subsection (2) is a class B misdemeanor.

3440 Section 77. Section **76-8-412** is amended to read:

3441 **76-8-412. Stealing, destroying or mutilating public records by custodian.**

3442 ~~[Every officer having the custody of any record, map, or book, or of any paper or~~
3443 ~~proceedings of any court, filed or deposited in any public office, or placed in his hands for any~~
3444 ~~purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering,~~
3445 ~~falsifying, removing, or secreting the whole or any part thereof, or who permits any other~~
3446 ~~person so to do, is guilty of a felony of the third degree.]~~

3447 (1) (a) As used in this section, "public record" means the following records filed or
3448 deposited in a public office:

3449 (i) a record;

3450 (ii) a map;

3451 (iii) a book; or

3452 (iv) a paper or proceeding of a court.

3453 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3454 (2) An actor commits stealing, destroying, or mutilating a public record by a custodian
3455 if the actor:

3456 (a) is a government officer who has custody of a public record; and

3457 (b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the
3458 whole or a part of the public record or permits another individual to do so.

3459 (3) A violation of Subsection (2) is a third degree felony.

3460 Section 78. Section **76-8-413** is amended to read:

3461 **76-8-413. Stealing, destroying or mutilating public records by one not custodian.**

3462 ~~[Every person, not an officer such as is referred to in the preceding section, who is~~
3463 ~~guilty of any of the acts specified in that section is guilty of a class A misdemeanor.]~~

3464 (1) (a) As used in this section, "public record" means the same as that term is defined
3465 in Section [76-8-412](#).

3466 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

3467 (2) An actor commits stealing, destroying, or mutilating a public record by a
3468 noncustodian if the actor:

3469 (a) does not have lawful custody of a public record; and

3470 (b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secretes the
3471 whole or a part of the public record or permits another individual to do so.

3472 (3) A violation of Subsection (2) is a class A misdemeanor.

3473 Section 79. Section **76-8-414** is amended to read:

3474 **76-8-414. Recording a false or forged instrument.**

3475 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3476 (2) [Every person who] An actor commits recording a false or forged instrument if the
3477 actor knowingly procures or offers [any] a false or forged instrument to be filed, registered, or
3478 recorded in [any] a public office, which instrument, if genuine, might be filed or registered or
3479 recorded under [any] a law of this state or of the United States[; is guilty of a felony of the third
3480 degree].

3481 (3) A violation of Subsection (2) is a third degree felony.

3482 Section 80. Section **76-8-415** is amended to read:

3483 **76-8-415. Damaging or removing a monument of an official survey.**

3484 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3485 (2) [Every person who] An actor commits damaging or removing a monument of an
3486 official survey if the actor willfully injures, defaces, or removes [any] a signal, monument,
3487 building, or appurtenance thereto, placed, erected, or used by persons engaged in the United
3488 States or state survey [is guilty of a class B misdemeanor].

3489 (3) A violation of Subsection (2) is a class B misdemeanor.

3490 Section 81. Section **76-8-416** is amended to read:

3491 **76-8-416. Taking a toll or maintaining a road, bridge, or ferry without authority.**

3492 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3493 (2) [Any person who] An actor commits taking a toll or maintaining a road, bridge, or
3494 ferry without authority if the actor, without authority:

3495 (a) demands or receives compensation for the use of [any] a bridge or ferry[;]; or [who]

3496 (b) sets up or keeps [any] a road, bridge, [or] ferry, or constructed ford, for the purpose
3497 of receiving remuneration for [its] the road's, bridge's, ferry's, or constructed ford's use [without

3498 authority of law; and any person who refuses to pay on demand the compensation or fee
3499 authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after
3500 having used it is guilty of a class B misdemeanor].

3501 (3) A violation of Subsection (2) is a class B misdemeanor.

3502 Section 82. Section **76-8-416.2** is enacted to read:

3503 **76-8-416.2. Refusal to pay a lawful toll.**

3504 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3505 (2) An actor commits refusal to pay a lawful toll if the actor, after having used a
3506 licensed toll road, bridge, ferry, or constructed ford, refuses to pay on demand the
3507 compensation or fee authorized to be collected for use of the licensed toll road, bridge, ferry, or
3508 constructed ford.

3509 (3) A violation of Subsection (2) is a class B misdemeanor.

3510 Section 83. Section **76-8-417** is amended to read:

3511 **76-8-417. Tampering with an official notice or proclamation.**

3512 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3513 (2) [Every person who] An actor commits tampering with an official notice or
3514 proclamation if the actor intentionally defaces, obliterates, tears down, or destroys:

3515 (a) [any] a copy, [or] transcript, or extract from or of [any] a law of the United States or
3516 of this state[;]; or

3517 (b) [any] a proclamation, advertisement, or notice, set up [at any place] in this state by
3518 authority of [any] a law of the United States or of this state, or by order of [any] a court or of
3519 [any] a public officer, before the expiration of the time for which the [same] proclamation,
3520 advertisement, or notice was to remain set up[, is guilty of an infraction].

3521 (3) A violation of Subsection (2) is an infraction.

3522 Section 84. Section **76-8-418** is amended to read:

3523 **76-8-418. Damaging a jail or other place of confinement.**

3524 (1) (a) As used in this section:

3525 [(a)] (i) "Child" means the same as that term is defined in Section 80-1-102.

3526 [(b)] (ii) "Detention facility" means the same as that term is defined in Section
3527 80-1-102.

3528 [(c)] (iii) "Secure care facility" means the same as that term is defined in Section

3529 80-1-102.

3530 ~~[(d)]~~ (iv) "Shelter facility" means the same as that term is defined in Section 80-1-102.

3531 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3532 (2) ~~[A person who]~~ An actor commits damaging a jail or other place of confinement if
 3533 the actor willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise
 3534 damages [any] a public jail or other place of confinement, including a detention facility, a
 3535 shelter facility, or a secure care facility[; is guilty of a felony of the third degree].

3536 (3) A violation of Subsection (2) is a third degree felony.

3537 ~~[(3)]~~ (4) This section is applicable to a child who willfully and intentionally commits
 3538 an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

3539 Section 85. Section 76-8-419 is amended to read:

3540 **76-8-419. Damaging a highway or bridge.**

3541 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3542 (2) ~~[Every person who]~~ An actor commits damaging a highway or bridge if the actor
 3543 intentionally, knowingly, or recklessly digs up, removes, displaces, breaks, or otherwise
 3544 damages or destroys [any public highway, or any] a public highway or private way laid out by
 3545 authority of law, or [any] a bridge upon the highway or private way [is guilty of a class A
 3546 misdemeanor].

3547 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a third degree
 3548 felony.

3549 ~~[(2)]~~ (4) If the violation of this section constitutes an offense subject to a greater
 3550 penalty under another provision of Title 76, Utah Criminal Code, than is provided under this
 3551 section, this section does not prohibit the prosecution and sentencing for the offense subject to
 3552 a greater penalty.

3553 Section 86. Section 76-8-420 is amended to read:

3554 **76-8-420. Removing or damaging a road sign.**

3555 ~~[Every person who intentionally or knowingly removes or injures any milepost or~~
 3556 ~~milestone or guidepost or any inscription on them, erected upon any highway, is guilty of a~~
 3557 ~~class B misdemeanor.]~~

3558 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

3559 (2) An actor commits removing or damaging a road sign if the actor intentionally or

3560 knowingly removes or damages:

3561 (a) a milepost, milestone, or guidepost erected on a highway; or

3562 (b) an inscription on a milepost, milestone, or guidepost.

3563 (3) A violation of Subsection (2) is a class B misdemeanor.

3564 Section 87. Section **76-8-501** is amended to read:

3565 **76-8-501. Definitions.**

3566 As used in this part:

3567 (1) "False statement" includes a false unsworn declaration~~[, with "unsworn declaration"~~

3568 ~~being defined in Section 78B-18a-102].~~

3569 (2) "Material" means capable of affecting the course or outcome of an official
3570 proceeding, unless the ~~[person]~~ individual who made the statement or provided the information
3571 retracts the statement or information before the earlier of:

3572 (a) the end of the official proceeding in which the statement was made or the
3573 information was provided;

3574 (b) when it becomes manifest that the false or misleading nature of the statement or
3575 information has been or will be exposed; or

3576 (c) when the statement or information substantially affects the proceeding.

3577 (3) "Official proceeding" means:

3578 (a) ~~[any]~~ a proceeding before:

3579 (i) a legislative, judicial, administrative, or other governmental body or official
3580 authorized by law to take evidence under oath or affirmation;

3581 (ii) a notary; or

3582 (iii) ~~[a person that]~~ an individual who takes evidence in connection with a proceeding
3583 described in Subsection (3)(a)(i);

3584 (b) ~~[any]~~ a civil or administrative action, trial, examination under oath, administrative
3585 proceeding, or other civil or administrative adjudicative process; or

3586 (c) an investigation or audit conducted by:

3587 (i) the Legislature, or a house, committee, subcommittee, or task force of the
3588 Legislature; or

3589 (ii) an employee or independent contractor of an entity described in Subsection

3590 (3)(c)(i), at or under the direction of an entity described in Subsection (3)(c)(i).

3591 (4) "Unsworn declaration" means the same as that term is defined in Section
3592 78B-18a-102.

3593 Section 88. Section **76-8-502** is amended to read:

3594 **76-8-502. Making a false or inconsistent material statement.**

3595 [~~A person is guilty of a felony of the second degree if in any official proceeding:~~]

3596 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this
3597 section.

3598 (2) [~~He~~] An actor commits making a false or inconsistent material statement if the
3599 actor:

3600 (a) makes a false material statement under oath or affirmation or swears or affirms the
3601 truth of a material statement previously made and [~~he~~] the actor does not believe the statement
3602 to be true; or

3603 [~~(2)~~] (b) [~~He~~] makes inconsistent material statements under oath or affirmation, both
3604 within the period of limitations, one of which is false and [~~not believed by him~~] the actor does
3605 not believe to be true.

3606 (3) A violation of Subsection (2) is a second degree felony.

3607 (4) It is not a defense to prosecution under this section that the oath or affirmation was
3608 administered or taken in an irregular manner.

3609 (5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's
3610 statement may not be established solely through contradiction by the testimony of a single
3611 witness.

3612 (b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or
3613 proved which of the statements are false but only that one or the other statement is false and
3614 not believed by the actor to be true.

3615 Section 89. Section **76-8-503** is amended to read:

3616 **76-8-503. Making a false or inconsistent statement.**

3617 (1) [~~Except as provided in Subsection (2), a person is guilty of a class B misdemeanor~~
3618 ~~if:]~~ Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

3619 [(a)] (2) [~~the person~~] Except as provided in Subsection (6), an actor commits making a
3620 false or inconsistent statement if the actor:

3621 (a) makes a false statement under oath or affirmation or swears or affirms the truth of

3622 the statement previously made and the ~~[person]~~ actor does not believe the statement to be true
3623 if:

3624 (i) the falsification occurs in an official proceeding, or is made with a purpose to
3625 mislead a public servant in performing the public servant's official functions; or

3626 (ii) the statement is one that is authorized by law to be sworn or affirmed before a
3627 notary or other ~~[person]~~ individual authorized to administer oaths; or

3628 (b) ~~[the person]~~ makes inconsistent statements under oath or affirmation, both within
3629 the period of limitations, one of which is false and not believed by the ~~[person]~~ actor to be true.

3630 (3) A violation of Subsection (2) is a class B misdemeanor.

3631 (4) (a) It is not a defense to prosecution under this section that the oath or affirmation
3632 was administered or taken in an irregular manner.

3633 (b) It is a defense to prosecution under this section that the actor retracted the false
3634 statement before it became manifest that the falsity of the statement had been or would be
3635 exposed.

3636 (5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's
3637 statement may not be established solely through contradiction by the testimony of a single
3638 witness.

3639 (b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or
3640 proved which of the statements are false but only that one or the other statement is false and
3641 not believed by the actor to be true.

3642 ~~[(2)]~~ (6) Subsection ~~[(1)]~~ (2) does not include obstructing a legislative proceeding, as
3643 described in Section [36-12-9.5](#).

3644 ~~[(3) A person is not guilty under this section if the person retracts the falsification~~
3645 ~~before it becomes manifest that the falsification has been or will be exposed.]~~

3646 Section 90. Section **76-8-504** is amended to read:

3647 **76-8-504. Making a written false statement.**

3648 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3649 section.

3650 (2) An actor commits ~~[the offense of]~~ making a written false statement if:

3651 (a) the actor makes a statement that the actor does not believe to be true on or under a
3652 form bearing a notification authorized by law to the effect that ~~[false statements made therein~~

3653 ~~are punishable]~~ a false statement made therein is punishable; or

3654 (b) with intent to deceive a public servant in the performance of the public servant's
3655 official function, the actor:

3656 (i) makes a written false statement that the actor does not believe to be true;

3657 (ii) knowingly creates a false impression in a written application for a pecuniary or
3658 other benefit by omitting information necessary to prevent a statement in the application from
3659 being misleading;

3660 (iii) submits or invites reliance on a writing that the actor knows to be lacking in
3661 authenticity; or

3662 (iv) submits or invites reliance on a sample, specimen, map, boundary mark, or other
3663 object that the actor knows to be false.

3664 ~~[(2)]~~ (3) (a) Except as provided in Subsection ~~[(2)(b);~~ (3)(b), a violation of Subsection
3665 [(1)] (2) is a class B misdemeanor.

3666 (b) A violation of Subsection ~~[(1)]~~ (2) is a third degree felony if the false statement is
3667 on a financial declaration described in Section 77-38b-204.

3668 ~~[(3) It is not an offense under this section if the actor retracts the falsification before it~~
3669 ~~becomes manifest that the falsification was or would be exposed.]~~

3670 (4) (a) An actor does not violate this section if the actor retracted the false statement
3671 before it became manifest that the falsity of the statement had been or would be exposed.

3672 (b) It is not a defense to prosecution under this section that, if applicable, an oath or
3673 affirmation was administered or taken in an irregular manner.

3674 Section 91. Section **76-8-504.5** is amended to read:

3675 **76-8-504.5. Making a false statement to be used in a preliminary hearing.**

3676 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this
3677 section.

3678 ~~(2) [A person is guilty of a class A misdemeanor if the person]~~ An actor commits
3679 making a false statement to be used in a preliminary hearing if the actor makes a false
3680 statement that:

3681 (a) ~~[which the person]~~ the actor does not believe to be true;

3682 (b) ~~[that the person]~~ the actor has reason to believe will be used in a preliminary
3683 hearing; and

- 3684 (c) the actor made after having been notified either verbally or in writing that:
3685 (i) the statement may be used in a preliminary hearing before a magistrate or a judge;
3686 and
3687 (ii) if the ~~[person]~~ actor makes a false statement after having received this notification,
3688 ~~[he]~~ the actor is subject to a criminal penalty.
3689 (3) A violation of Subsection (2) is a class A misdemeanor.
3690 (4) It is not a defense to prosecution under this section that, if applicable, an oath or
3691 affirmation was administered or taken in an irregular manner.

3692 ~~[(2)]~~ (5) ~~[Notification]~~ A notification under Subsection ~~[(1)]~~ (2)(c) is sufficient if [it]
3693 the notification is verbal or written and is in substantially the following form: "You are notified
3694 that statements you are about to make may be presented to a magistrate or a judge in lieu of
3695 your sworn testimony at a preliminary examination. Any false statement you make and that
3696 you do not believe to be true may subject you to criminal punishment as a class A
3697 misdemeanor."

3698 Section 92. Section **76-8-504.6** is amended to read:

3699 **76-8-504.6. Providing false or misleading information.**

3700 (1) (a) As used in this section, "officer of the court" means:

- 3701 (i) a prosecutor;
3702 (ii) a judge;
3703 (iii) a court clerk;
3704 (iv) an interpreter;
3705 (v) a presentence investigator;
3706 (vi) a probation officer;
3707 (vii) a parole officer; or
3708 (viii) an individual reasonably believed to be gathering information for a criminal
3709 proceeding.

3710 (b) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3711 section.

3712 (2) ~~[A person is guilty of a class B misdemeanor if the person,]~~ An actor commits
3713 providing false or misleading information if the actor, not under oath or affirmation,
3714 intentionally or knowingly provides false or misleading material information to:

- 3715 (a) an officer of the court for the purpose of influencing a criminal proceeding; or
 3716 (b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of
 3717 eligibility for:
- 3718 (i) expungement; or
 3719 (ii) removal of the person's name from the White Collar Crime Registry created in Title
 3720 77, Chapter 42, Utah White Collar Crime Offender Registry.
- 3721 (3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B
 3722 misdemeanor.
- 3723 [~~(2) For the purposes of this section "officer of the court" means:~~]
 3724 [~~(a) prosecutor;~~]
 3725 [~~(b) judge;~~]
 3726 [~~(c) court clerk;~~]
 3727 [~~(d) interpreter;~~]
 3728 [~~(e) presentence investigator;~~]
 3729 [~~(f) probation officer;~~]
 3730 [~~(g) parole officer; and~~]
 3731 [~~(h) any other person reasonably believed to be gathering information for a criminal~~
 3732 ~~proceeding.~~]
- 3733 [~~(3)~~] (4) This section does not apply under circumstances amounting to Section
 3734 76-8-306 or any other provision of this code carrying a greater penalty.
 3735 Section 93. Section 76-8-506 is amended to read:
 3736 **76-8-506. Providing false information to a law enforcement officer, government**
 3737 **agency, or specified professional.**
- 3738 [A person is guilty of a class B misdemeanor if he:]
 3739 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this
 3740 section.
- 3741 (2) An actor commits providing false information to a law enforcement officer,
 3742 government agency, or specified professional if the actor knowingly gives or causes to be
 3743 given:
- 3744 (a) false information to [any] a peace officer or [any] state or local government agency
 3745 or personnel with a purpose of inducing the recipient of the information to believe that another

3746 person has committed an offense;

3747 ~~[(2)]~~ (b) ~~[knowingly gives or causes to be given to any]~~ information concerning the
 3748 commission of an offense to a peace officer, [any] a state or local government agency or
 3749 personnel, or to [any person] an individual licensed in this state to practice social work,
 3750 psychology, or marriage and family therapy, ~~[information concerning the commission of an~~
 3751 ~~offense;]~~ knowing that the offense did not occur or knowing that ~~[he]~~ the actor has no
 3752 information relating to the offense or danger; or

3753 ~~[(3)]~~ (c) ~~[knowingly gives or causes to be given]~~ false information to ~~[any]~~ a state or
 3754 local government agency or personnel with a purpose of inducing a change in the ~~[person's]~~
 3755 actor's licensing or certification status or the licensing or certification status of another person.

3756 (3) A violation of Subsection (2) is a class B misdemeanor.

3757 Section 94. Section **76-8-507** is amended to read:

3758 **76-8-507. Providing false personal information to a peace officer.**

3759 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
 3760 section.

3761 (2) ~~[A person commits a class C misdemeanor if;]~~ An actor commits providing false
 3762 personal information to a peace officer if the actor knowingly:

3763 (a) with intent of misleading a peace officer as to the ~~[person's]~~ actor's identity, birth
 3764 date, or place of residence, ~~[the person knowingly]~~ gives a false name, birth date, or address to
 3765 ~~[a]~~ the peace officer in the lawful discharge of the peace officer's official duties~~[-]; or~~

3766 ~~[(2)]~~ (b) ~~[A person commits a class A misdemeanor if;]~~ with the intent of leading a
 3767 peace officer to believe that the ~~[person]~~ actor is another actual ~~[person, he]~~ individual, gives
 3768 the name, birth date, or address of another ~~[person to a]~~ individual to the peace officer acting in
 3769 the lawful discharge of the peace officer's official duties.

3770 (3) (a) A violation of Subsection (2)(a) is a class C misdemeanor.

3771 (b) A violation of Subsection (2)(b) is a class A misdemeanor.

3772 Section 95. Section **76-8-508** is amended to read:

3773 **76-8-508. Tampering with a witness.**

3774 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
 3775 section.

3776 (2) ~~[A person is guilty of the third degree felony of]~~ An actor commits tampering with

3777 a witness if[;] the actor:

3778 (a) (i) [~~believing~~] believes that an official proceeding or investigation is pending or
3779 about to be instituted[;]; or

3780 (ii) [~~with the intent~~] intends to prevent an official proceeding or investigation[;]; and

3781 (b) [~~he~~] attempts to induce or otherwise cause another [~~person~~] individual to:

3782 [~~(a)~~] (i) testify or inform falsely;

3783 [~~(b)~~] (ii) withhold [~~any~~] testimony, information, a document, or an item;

3784 [~~(c)~~] (iii) elude legal process summoning [~~him~~] the individual to provide evidence; or

3785 [~~(d)~~] (iv) absent [~~himself~~] the individual from [~~any~~] a proceeding or investigation to
3786 which [~~he~~] the individual has been summoned.

3787 [~~(2) A person is guilty of the third degree felony of soliciting or receiving a bribe as a~~
3788 ~~witness if he solicits, accepts, or agrees to accept any benefit in consideration of his doing any~~
3789 ~~of the acts specified under Subsection (1).]~~

3790 (3) A violation of Subsection (2) is a third degree felony.

3791 [~~(3)~~] (4) [~~The offense of tampering with a witness or soliciting or receiving a bribe~~] A
3792 violation under this section does not merge with [~~any other~~] another substantive offense
3793 committed in the course of [~~committing any offense under~~] violating this section.

3794 Section 96. Section **76-8-508.3** is amended to read:

3795 **76-8-508.3. Retaliation against a witness, victim, or informant.**

3796 [~~(1) As used in this section:~~]

3797 (1) (a) [~~A person is "closely associated"~~] As used in this section, "an individual closely
3798 associated with a witness, victim, or informant [~~if the person~~] "means an individual who is a
3799 member of the witness', victim's, or informant's family, has a close personal or business
3800 relationship with the witness or victim, or resides in the same household with the witness,
3801 victim, or informant.

3802 (b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this
3803 section.

3804 [~~(b) "Harm" means physical, emotional, or economic injury or damage to a person or to~~
3805 ~~his property, reputation, or business interests.~~]

3806 [~~(2) A person is guilty of the third degree felony of retaliation against a witness, victim,~~
3807 ~~or informant if, believing that an official proceeding or investigation is pending, is about to be~~

3808 ~~instituted, or has been concluded, he:]~~
3809 ~~[(a) (i) makes a threat of harm, or]~~
3810 ~~[(ii) causes harm; and]~~
3811 ~~[(b) directs the threat or action:]~~
3812 ~~[(i) against a witness or an informant regarding any official proceeding, a victim of any~~
3813 ~~crime, or any person closely associated with a witness, victim, or informant; and]~~
3814 ~~[(ii) as retaliation or retribution against the witness, victim, or informant.]~~
3815 ~~[(3)] (2) An actor commits retaliation against a witness, victim, or informant if the~~
3816 ~~actor:~~
3817 ~~(a) believes that an official proceeding or investigation is pending, is about to be~~
3818 ~~brought, or has been concluded;~~
3819 ~~(b) makes a threat of harm or causes harm; and~~
3820 ~~(c) directs the threat or action causing harm as retaliation or retribution against a~~
3821 ~~witness or an informant involved in an official proceeding, a victim of a crime, or an individual~~
3822 ~~closely associated with a witness, victim, or informant.~~
3823 ~~(3) A violation of Subsection (2) is a third degree felony.[This section does not prohibit~~
3824 ~~any person from seeking any legal redress to which the person is otherwise entitled.]~~
3825 ~~(4) [The offense of retaliation against a witness, victim, or informant] A violation~~
3826 ~~under this section does not merge with [any other] another substantive offense committed in~~
3827 ~~the course of [committing any offense under] violating this section.~~
3828 ~~(5) This section does not prohibit an individual from seeking other legal redress to~~
3829 ~~which the individual is otherwise entitled.~~
3830 Section 97. Section **76-8-508.5** is amended to read:
3831 **76-8-508.5. Tampering or retaliating against a juror.**
3832 (1) (a) As used in this section, "juror" means ~~[a person]~~ an individual:
3833 ~~[(a)] (i) summoned for jury duty; or~~
3834 ~~[(b)] (ii) serving as or having served as a juror or alternate juror in any court or as a~~
3835 ~~juror on any grand jury of the state.~~
3836 (b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this
3837 section.
3838 (2) ~~[A person is guilty of tampering with a juror if he]~~ An actor commits tampering or

3839 retaliating against a juror if the actor:

3840 (a) attempts to or actually influences a juror in the discharge of the juror's service by:

3841 ~~[(a)]~~ (i) communicating with the juror by any means, directly or indirectly, except for

3842 ~~[attorneys]~~ an attorney in the lawful discharge of ~~[their]~~ the attorney's duties in open court;

3843 ~~[(b)]~~ (ii) offering, conferring, or agreeing to confer any benefit upon the juror; or

3844 ~~[(c)]~~ (iii) communicating to the juror a threat that a reasonable person would believe to

3845 be a threat to injure:

3846 ~~[(i)]~~ (A) the juror's person or property; or

3847 ~~[(ii)]~~ (B) the person or property of ~~[any other person]~~ another individual in whose

3848 welfare the juror is interested~~[-]; or~~

3849 ~~[(3)]~~ (b) ~~[A person is guilty of tampering with a juror if he commits any]~~ commits an

3850 unlawful act in retaliation for ~~[anything done]~~ an action taken by the juror in the discharge of

3851 the juror's service:

3852 ~~[(a)]~~ (i) to the juror's person or property; or

3853 ~~[(b)]~~ (ii) to the person or property of ~~[any other person]~~ another individual in whose

3854 welfare the juror is interested.

3855 ~~[(4)]~~ (3) ~~[Tampering with a juror]~~ A violation of Subsection (2) is a third degree

3856 felony.

3857 Section 98. Section **76-8-508.7** is enacted to read:

3858 **76-8-508.7. Receiving or soliciting a bribe as a witness.**

3859 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this

3860 section.

3861 (2) An actor commits receiving or soliciting a bribe as a witness if the actor:

3862 (a) believes that an official proceeding or investigation is pending or about to be

3863 instituted; and

3864 (b) solicits, accepts, or agrees to accept a benefit in consideration of the actor:

3865 (i) testifying or informing falsely;

3866 (ii) withholding testimony, information, a document, or an item;

3867 (iii) eluding legal process summoning the actor to provide evidence; or

3868 (iv) absenting the actor from a proceeding or investigation to which the actor has been

3869 summoned.

3870 (3) A violation of Subsection (2) is a third degree felony.

3871 (4) A violation under this section does not merge with another substantive offense
3872 committed in the course of violating this section.

3873 Section 99. Section **76-8-509** is amended to read:

3874 **76-8-509. Extortion or bribery to dismiss a criminal proceeding.**

3875 (1) (a) As used in this section, "victim" includes a child or other individual under the
3876 care or custody of a parent or guardian.

3877 (b) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3878 section.

3879 (2) [A person is guilty of a felony of the second degree if by] An actor commits
3880 extortion or bribery to dismiss a criminal proceeding if the actor attempts to induce an alleged
3881 victim of a crime to take an action to secure the dismissal or to prevent the filing of a criminal
3882 complaint, indictment, or information by:

3883 (a) the use of force; or

3884 (b) [by any threat which would constitute a means of committing the crime of theft by
3885 extortion under this code, if the threat were employed to obtain property, or by promise of any
3886 reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the
3887 dismissal of or to prevent the filing of a criminal complaint, indictment, or information.] a
3888 threat that would constitute a means of committing the offense of theft by extortion under
3889 Section [76-6-406](#) if the threat were employed to obtain property or by promise of a reward or
3890 pecuniary benefit

3891 (3) A violation of Subsection (2) is a second degree felony.

3892 [(2) "Victim," as used in this section, includes a child or other person under the care or
3893 custody of a parent or guardian.]

3894 Section 100. Section **76-8-510.5** is amended to read:

3895 **76-8-510.5. Tampering with evidence.**

3896 (1) (a) As used in this section, "thing or item" includes any document, record book,
3897 paper, file, electronic compilation, or other evidence.

3898 (b) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3899 section.

3900 (2) [A person is guilty of] An actor commits tampering with evidence if[, believing]

3901 the actor:

3902 (a) (i) believes that an official proceeding or investigation is pending or about to be
3903 instituted~~[-];~~ or ~~[with the intent]~~

3904 (ii) intends to prevent an official proceeding or investigation or to prevent the
3905 production of ~~[any]~~ a thing or item which reasonably would be anticipated to be evidence in the
3906 official proceeding or investigation~~[-, the person];~~ and

3907 (b) knowingly or intentionally:

3908 ~~[(a)]~~ (i) alters, destroys, conceals, or removes ~~[any]~~ a thing or item with the purpose of
3909 impairing the veracity or availability of the thing or item in the proceeding or investigation; or

3910 ~~[(b)]~~ (ii) makes, presents, or uses ~~[any]~~ a thing or item which the ~~[person]~~ actor knows
3911 to be false with the purpose of deceiving a public servant or ~~[any]~~ other party who is or may be
3912 engaged in the proceeding or investigation.

3913 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
3914 A misdemeanor.

3915 (b) A violation of Subsection (2) is a third degree felony if the offense is committed in
3916 conjunction with an official proceeding.

3917 ~~[(3)]~~ (4) Subsection (2) does not apply to any offense that amounts to a violation of
3918 Section [76-8-306](#).

3919 ~~[(4)(a) Tampering with evidence is a third degree felony if the offense is committed in~~
3920 ~~conjunction with an official proceeding.]~~

3921 ~~[(b) Any violation of this section except under Subsection (4)(a) is a class A~~
3922 ~~misdemeanor.]~~

3923 Section 101. Section **76-8-511** is amended to read:

3924 **76-8-511. Falsification or alteration of a government record.**

3925 ~~[A person is guilty of a class B misdemeanor]~~

3926 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3927 section.

3928 (2) An actor commits falsification or alteration of a government record if, under
3929 circumstances not amounting to an offense subject to a greater penalty under Title 76, Chapter
3930 6, Part 5, Fraud, ~~[the person]~~ the actor:

3931 ~~[(1)]~~ (a) knowingly makes a false entry in or false alteration of anything belonging to,

3932 received, or kept by the government for information or record, or required by law to be kept for
3933 information of the government;

3934 ~~[(2)]~~ (b) presents or uses anything knowing it to be false and with a purpose that it be
3935 taken as a genuine part of information or ~~[records]~~ record referred to in Subsection ~~[(1)]~~ (2)(a);
3936 or

3937 ~~[(3)]~~ (c) intentionally destroys, conceals, or otherwise impairs the verity or availability
3938 of the information or ~~[records]~~ record, knowing that the destruction, concealment, or
3939 impairment is unlawful.

3940 (d) Except as provided in Subsection (4), a violation of Subsection (2) is a class B
3941 misdemeanor.

3942 Section 102. Section **76-8-512** is amended to read:

3943 **76-8-512. Impersonation of officer.**

3944 ~~[A person is guilty of a class B misdemeanor who:]~~

3945 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3946 section.

3947 ~~[(1)]~~ (2) An actor commits impersonation of an officer if the actor:

3948 (a) impersonates a public servant or a peace officer with intent to deceive another
3949 individual or with intent to induce another individual to submit to ~~[his]~~ the actor's pretended
3950 official authority or to rely upon ~~[his]~~ the actor's pretended official act;

3951 ~~[(2)]~~ (b) falsely states ~~[he]~~ that the actor is a public servant or a peace officer with
3952 intent to deceive another individual or to induce another individual to submit to ~~[his]~~ the actor's
3953 pretended official authority or to rely upon ~~[his]~~ the actor's pretended official act; or

3954 ~~[(3)]~~ (c) displays or possesses without authority ~~[any]~~ a badge, identification card,
3955 other form of identification, ~~[any]~~ a restraint device, ~~[or]~~ the uniform of ~~[any]~~ a state or local
3956 governmental entity, or a reasonable facsimile of any of these items, with the intent to deceive
3957 another individual or with the intent to induce another individual to submit to ~~[his]~~ the actor's
3958 pretended official authority or to rely upon ~~[his]~~ the actor's pretended official act.

3959 (3) A violation of Subsection (2) is a class B misdemeanor.

3960 Section 103. Section **76-8-513** is amended to read:

3961 **76-8-513. Sending a false judicial or official notice.**

3962 ~~[A person is guilty of a class B misdemeanor who, with a purpose to procure the~~

3963 ~~compliance of another with a request made by the person, knowingly sends, mails, or delivers~~
3964 ~~to the person a notice or other writing which has no judicial or other sanction but which in its~~
3965 ~~format or appearance simulates a summons, complaint, court order, or process, or an insignia,~~
3966 ~~seal, or printed form of a federal, state, or local government or an instrumentality thereof, or is~~
3967 ~~otherwise calculated to induce a belief that it does have a judicial or other official sanction.]~~

3968 (1) (a) As used in this section:

3969 (i) "Official document" means:

3970 (A) a summons, complaint, court order, or process; or

3971 (B) an insignia, seal, or printed form of a federal, state, or local governmental entity or
3972 an instrumentality of a federal, state, or local governmental entity.

3973 (ii) (A) "False official document" means a document that has the appearance or format
3974 of an official document but that has not been sanctioned by the relevant governmental entity.

3975 (B) "False official document" includes a document calculated to induce an individual
3976 to believe that the document is an official document of the relevant governmental entity.

3977 (b) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-501](#) apply to this
3978 section.

3979 (2) An actor commits sending a false judicial or official notice if the actor knowingly
3980 sends, mails, or delivers to an individual a false official document with the purpose to procure
3981 the compliance of the individual.

3982 (3) A violation of Subsection (2) is a class B misdemeanor.

3983 Section 104. Section **76-8-515** is amended to read:

3984 **76-8-515. Impersonation of a utility officer or employee.**

3985 (1) (a) As used in this section:

3986 (i) "Critical infrastructure facility" means the same as that term is defined in Section
3987 [76-6-106.3](#).

3988 (ii) "Sabotage" means the same as that term is defined in Section [76-8-901](#).

3989 (iii) "Terrorism" means the same as that term is defined in Section [53-2a-102](#).

3990 (iv) "Utility" means a private or governmental entity operating a critical infrastructure
3991 facility.

3992 (b) Terms defined [~~in Section [76-1-101.5](#) apply to this section~~] in Sections [76-1-101.5](#),
3993 [76-8-101](#), and [76-8-501](#) apply to this section.

3994 (2) An actor commits impersonation of a utility officer or employee if the actor,
3995 without authority from a utility:

3996 (a) intends to lead an individual to believe that the actor is acting on behalf of the
3997 utility in an official capacity; and

3998 (b) attempts to act on behalf of the utility.

3999 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
4000 class A misdemeanor.

4001 (b) ~~[Notwithstanding Subsection (3)(a), a]~~ A violation of Subsection (2) is a third
4002 degree felony if the actor, while taking the action described in Subsection (2), intends to
4003 commit an act of terrorism or sabotage.

4004 Section 105. Section **76-8-601** is amended to read:

4005 **76-8-601. Wrongful commencement of an action in justice court.**

4006 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4007 (2) An actor commits wrongful commencement of an action in justice court if the
4008 actor:

4009 (a) is:

4010 (i) a party to a suit or a proceeding; or

4011 (ii) an agent or attorney for a party to a suit or proceeding; and

4012 (b) ~~[Any party to any suit or proceeding, and any attorney or agent for the party, who~~
4013 ~~knowingly commences, prosecutes, or maintains any action, suit, or proceeding in any justice~~
4014 ~~court other than as provided in Sections 78A-7-105 and 78A-7-106, is guilty of a class B~~
4015 ~~misdemeanor.]~~ except as provided in Section 78A-7-105 or 78A-7-106, knowingly
4016 commences, prosecutes, or maintains an action, suit, or proceeding in a justice court.

4017 (3) A violation of Subsection (2) is a class B misdemeanor.

4018 Section 106. Section **76-8-602** is amended to read:

4019 **76-8-602. Wrongfully conferring jurisdiction upon a justice court.**

4020 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4021 (2) ~~[Any person who binds himself, or]~~ An actor commits wrongfully conferring
4022 jurisdiction upon a justice court if the actor, for the purpose of conferring jurisdiction of a
4023 cause upon a justice court in a precinct or city that would be without jurisdiction except for the
4024 liability of the joint obligor, binds the actor's self, voluntarily becomes liable jointly or jointly

4025 and severally with ~~[any other person, for the purpose of conferring jurisdiction of any cause~~
 4026 ~~upon any justice court judge in any precinct or city that would be without jurisdiction except~~
 4027 ~~for the liability of the joint obligor, and any person who induces a person to assume the liability~~
 4028 ~~for the purpose of conferring jurisdiction upon the justice court judge, is guilty of] another~~
 4029 ~~person, or induces a person to assume a liability.~~

4030 (3) A violation of Subsection (2) is a class B misdemeanor.

4031 Section 107. Section **76-8-603** is amended to read:

4032 **76-8-603. Wrongfully issued writ of attachment by a justice court judge.**

4033 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4034 (2) ~~[It is unlawful for any]~~ An actor commits wrongfully issued writ of attachment by a
 4035 justice court judge if the actor:

4036 (a) is a justice court judge ~~[to issue any]; and~~

4037 (b) issues a writ of attachment~~[-, and for any party, agent, or attorney of the party, to~~
 4038 advise, induce, or procure the issuance thereof, in any] in an action, suit, or proceeding:

4039 (i) before the affidavit is filed~~[-];~~ or

4040 (ii) ~~[where]~~ in which the affidavit filed does not conform substantially with the
 4041 requirements of Rule 64C of the Utah Rules of Civil Procedure.

4042 (3) ~~[Any person violating any of the provisions of this section is guilty of]~~ A violation
 4043 of Subsection (2) is a class B misdemeanor ~~[and shall be].~~

4044 (4) In addition to the penalty under Subsection (3), an actor is liable to the person
 4045 whose property, credits, money, or earnings are attached for:

4046 (a) double the value of the attached property~~[-, together with];~~

4047 (b) all costs paid by ~~[him,]~~ the person; and

4048 (c) all damages incurred in the attachment proceedings.

4049 Section 108. Section **76-8-604** is enacted to read:

4050 **76-8-604. Wrongful inducement to receive writ of attachment.**

4051 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4052 (2) An actor commits wrongful inducement to receive writ of attachment if the actor:

4053 (a) is:

4054 (i) a party to an action, suit, or proceeding;

4055 (ii) an agent of a party to an action, suit, or proceeding; or

4056 (iii) an attorney of a party to an action, suit, or proceeding; and
4057 (b) advises, induces, or procures the issuance of a writ of attachment in the action, suit
4058 or proceeding:
4059 (i) before the affidavit is filed; or
4060 (ii) in which the affidavit filed does not conform substantially with the requirements of
4061 Rule 64C of the Utah Rules of Civil Procedure.
4062 (3) A violation of Subsection (2) is a class B misdemeanor.
4063 (4) In addition to the penalty under Subsection (3), an actor is liable to the person
4064 whose property, credits, money, or earnings are attached for:
4065 (a) double the value of the attached property;
4066 (b) all costs paid by the person; and
4067 (c) all damages incurred in the attachment proceedings.
4068 Section 109. Section **76-8-703** is amended to read:
4069 **76-8-703. Criminal trespass upon an institution of higher education.**
4070 (1) (a) As used in this section:
4071 (i) "Chief administrative officer" means the same as that term is defined in Section
4072 [53B-20-107](#).
4073 (ii) "Enters" means intrusion of the entire body.
4074 (iii) "Institution of higher education" means the same as that term is defined in Section
4075 [53B-20-107](#).
4076 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.
4077 (2) An actor commits criminal trespass upon an institution of higher education if the
4078 actor enters or remains on property that is owned, operated, or controlled by an institution of
4079 higher education:
4080 (a) after being ordered to leave by the chief administrative officer; or
4081 (b) without authorization if notice against entry or remaining has been given by:
4082 (i) personal communication to the person by the chief administrative officer or a person
4083 with apparent authority to act for the institution of higher education;
4084 (ii) the posting of signs reasonably likely to come to the attention of a trespasser;
4085 (iii) fencing or other enclosure obviously designed to exclude a trespasser; or
4086 (iv) a current order of suspension or expulsion.

4087 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
4088 B misdemeanor.

4089 (b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously
4090 been convicted two or more times of a violation of Subsection (2).

4091 ~~[(a) A chief administrative officer may order a person to leave property that is owned,~~
4092 ~~operated, or controlled by an institution of higher education if the person:]~~

4093 ~~[(i) acts or if the chief administrative officer has reasonable cause to believe that the~~
4094 ~~person intends to act to:]~~

4095 ~~[(A) cause injury to a person;]~~

4096 ~~[(B) cause damage to property;]~~

4097 ~~[(C) commit a crime;]~~

4098 ~~[(D) interfere with the peaceful conduct of the activities of the institution;]~~

4099 ~~[(E) violate any rule or regulation of the institution if that rule or regulation is not in~~
4100 ~~conflict with state law; or]~~

4101 ~~[(F) disrupt the institution, its pupils, or the institution's activities; or]~~

4102 ~~[(ii) is reckless as to whether the person's actions will cause fear for the safety of~~
4103 ~~another.]~~

4104 ~~[(b) A person is guilty of criminal trespass upon an institution of higher education if~~
4105 ~~the person enters or remains on property that is owned, operated, or controlled by an institution~~
4106 ~~of higher education after being ordered to leave under Subsection (1)(a).]~~

4107 ~~[(e)]~~ (4) The mere carrying or possession of a firearm on the campus of a state
4108 institution of higher education, as defined in Section [53B-3-102](#), does not warrant an order to
4109 leave under Subsection ~~[(1)(a) if the person]~~ (2)(a) if the individual carrying or possessing the
4110 firearm is otherwise complying with all state laws regulating the possession and use of a
4111 firearm.

4112 ~~[(2) A person is guilty of criminal trespass upon an institution of higher education if~~
4113 ~~the person enters or remains without authorization upon property that is owned, operated, or~~
4114 ~~controlled by an institution of higher education if notice against entry or remaining has been~~
4115 ~~given by:]~~

4116 ~~[(a) personal communication to the person by the chief administrative officer or a~~
4117 ~~person with apparent authority to act for the institution;]~~

4118 ~~[(b) the posting of signs reasonably likely to come to the attention of trespassers;]~~

4119 ~~[(c) fencing or other enclosure obviously designed to exclude trespassers; or]~~

4120 ~~[(d) a current order of suspension or expulsion.]~~

4121 ~~[(3)]~~ (5) If an employee or student of an institution of higher education is ordered to

4122 leave under Subsection ~~[(1)]~~ (2)(a) or receives a notice against entry or remaining under

4123 Subsection ~~[(2)]~~ (2)(b), the institution of higher education shall afford the employee or student

4124 the process required by the institution of higher education's rules and regulations.

4125 ~~[(4) A person who violates this section shall be punished as provided in Section~~

4126 ~~76-8-717.]~~

4127 Section 110. Section **76-8-705** is amended to read:

4128 **76-8-705. Willful interference with lawful activities of students or faculty.**

4129 (1) (a) As used in this section, "institution" means the same as that term is defined in

4130 Section 53B-20-107.

4131 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4132 (2) ~~[A person is guilty of a class C misdemeanor if,]~~ An actor commits willful

4133 interference with lawful activities of students or faculty if the actor, while on property that is

4134 owned, operated, or controlled by an institution [of higher education, the person], willfully:

4135 ~~[(1)]~~ (a) denies to a student, school official, employee, or invitee lawful:

4136 ~~[(a)]~~ (i) freedom of movement;

4137 ~~[(b)]~~ (ii) use of the property or facilities; or

4138 ~~[(c)]~~ (iii) ingress or egress to the institution's physical facilities;

4139 ~~[(2)]~~ (b) impedes a faculty or staff member of the institution in the lawful performance

4140 of the member's duties; or

4141 ~~[(3)]~~ (c) impedes a student of the institution in the lawful pursuit of the student's

4142 educational activities.

4143 (3) A violation of Subsection (2) is a class C misdemeanor.

4144 Section 111. Section **76-8-802** is amended to read:

4145 **76-8-802. Destruction of property to interfere with preparations for defense or**

4146 **war.**

4147 ~~[Whoever]~~

4148 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4149 (2) An actor commits destruction of property to interfere with preparations for defense
 4150 or war if the actor:

4151 (a) intentionally destroys, impairs, injures, interferes, or tampers with real or personal
 4152 property; and

4153 (b) [with] has reasonable grounds to believe that the [act] actor's conduct under
 4154 Subsection (2)(a) will hinder, delay, or interfere with the preparation of the United States [or of
 4155 any of the states] government or of a state government for defense or for war, or with the
 4156 prosecution of war by the United States[, shall be guilty of a felony of the second degree]
 4157 government.

4158 (3) A violation of Subsection (2) is a second degree felony.

4159 (4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's
 4160 conduct under Subsection (2) or the name of the actor may not be made public.

4161 Section 112. Section **76-8-803** is amended to read:

4162 **76-8-803. Causing or omitting to note defects in articles used in preparation for**
 4163 **defense or war.**

4164 (1) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

4165 (2) [Whoever] An actor commits causing or omitting to note defects in articles used in
 4166 preparation for defense or war if the actor:

4167 (a) intentionally makes or causes to be made or omits to note on inspection [any] a
 4168 defect in [any] an article or thing; and

4169 (b) [with] has reasonable grounds to believe that the article or thing is intended to be
 4170 used in connection with the preparation of the United States [or any of the states] government
 4171 or of a state government for defense or for war, or for the prosecution of war by the United
 4172 States[, or that the article or thing is one of a number of similar articles or things, some of
 4173 which are intended so to be used, shall be guilty of a felony of the third degree:] government.

4174 (3) A violation of Subsection (2) is a third degree felony.

4175 (4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's
 4176 conduct under Subsection (2) or the name of the actor may not be made public.

4177 Section 113. Section **76-8-804** is amended to read:

4178 **76-8-804. Attempts to commit crimes of sabotage.**

4179 ~~[Whoever attempts to commit any of the crimes defined by this part shall be punishable~~

4180 for the attempt as prescribed in Section ~~76-4-102~~. In addition to the acts which constitute an
4181 attempt to commit crime under the law of this state, the solicitation or incitement of another to
4182 commit any of the crimes defined by this part not allowed by the commission of the crime, the
4183 collection or assemblage of any materials with the intent that they are to be used then or at a
4184 later time in the commission of the crime, or the entry, with or without permission, of a
4185 building, enclosure or other premises of another with the intent to commit any such crime
4186 therein or thereon shall constitute an attempt to commit the crime.]

4187 (1) (a) An actor that attempts to commit a crime under this part is punishable for the
4188 attempt as prescribed in Section 76-4-102.

4189 (b) In addition to the acts that constitute an attempt to commit a crime under the law of
4190 this state, an actor's conduct constitutes an attempt to commit a crime under this part if the
4191 actor:

4192 (i) solicits or incites another individual to commit a crime under this part;

4193 (ii) collects or assembles materials with the intent to use the materials to commit a
4194 crime under this part; or

4195 (iii) enters, with or without permission, a building, enclosure, or other premises
4196 intending to commit a crime under this part.

4197 (2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's
4198 conduct under this section or the name of the actor may not be made public.

4199 Section 114. Section **76-8-805** is amended to read:

4200 **76-8-805. Conspiracy to commit crimes of sabotage.**

4201 (1) (a) If two or more [persons] actors conspire to commit [any crime defined
4202 by] a crime under this part and regardless of whether an additional act is done in furtherance of
4203 the conspiracy, each [of the persons] actor:

4204 (i) is guilty of conspiracy in accordance with Section 76-4-201; and

4205 (ii) notwithstanding Section 76-4-202, is subject to the same punishment as if [he] the
4206 actor had committed the crime [which he] that the actor conspired to commit[, whether or not
4207 any act be done in furtherance of the conspiracy. It shall not constitute any]

4208 (b) It is not a defense or ground of suspension of judgment, sentence, or punishment
4209 [on behalf of any person prosecuted] under this section that [any of his] an actor's fellow
4210 conspirators [has] have been acquitted, [has] have not been arrested or convicted, or [is] are

4211 amenable to justice or ~~[has]~~ have been pardoned or otherwise discharged before or after a
4212 conviction.

4213 (2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's
4214 conduct under Subsection (1)(a) or the name of the actor may not be made public.

4215 Section 115. Section **76-8-807** is amended to read:

4216 **76-8-807. Trespassing at a war or defense facility.**

4217 ~~[(1) Any individual, partnership, association, corporation, municipal corporation, or~~
4218 ~~state or any political subdivision thereof engaged in, or preparing to engage in, the~~
4219 ~~manufacture, transportation or storage of any product to be used in the preparation of the~~
4220 ~~United States or of any of the states for defense or for war or in the prosecution of war by the~~
4221 ~~United States, or the manufacture, transportation, distribution or storage of gas, oil, coal,~~
4222 ~~electricity or water, or any natural or artificial persons operating any public utility, whose~~
4223 ~~property, except where it fronts on water or where there are entrances for railway cars, vehicles,~~
4224 ~~persons, or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post~~
4225 ~~around his or its property at each gate, entrance, dock, or railway entrance and every one~~
4226 ~~hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also~~
4227 ~~designate a point of entrance or place where application may be made for permission to enter,~~
4228 ~~and permission shall not be denied to any loyal citizen who has a valid right to enter.]~~

4229 (1) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

4230 (2) An actor commits trespassing at a war or defense facility if:

4231 (a) the actor intentionally enters a facility engaged in, or preparing to engage in, the
4232 manufacture, transportation, or storage of a product to be used in the preparation of the United
4233 States government or of a state government for defense or for war or in the prosecution of war
4234 by the United States government;

4235 (b) the actor does not have permission from the owner of the facility to enter; and

4236 (c) the facility has posted signs reading "No Entry Without Permission."

4237 ~~[(2)]~~ (3) [Any person willfully entering property enumerated in Subsection (1), without
4238 permission of the owner, shall be guilty of] A violation of Subsection (2) is a class C
4239 misdemeanor.

4240 (4) (a) A peace officer or individual employed as a watchman, a guard, or in a
4241 supervisory capacity on the premises of a facility under this section may stop an individual

4242 found on the premises and detain the individual for the purpose of demanding the individual's
4243 name, address, and reason for being on the premises.

4244 (b) If the peace officer or individual employed as a watchman, a guard, or in a
4245 supervisory capacity on the premises of a facility under this section has reason to believe that
4246 an individual stopped on the facility's premises has no right to be there, the peace officer or
4247 employee may:

4248 (i) release the individual; or

4249 (ii) arrest the individual without a warrant on the charge of violating this section.

4250 Section 116. Section **76-8-809** is amended to read:

4251 **76-8-809. Closing or restricting use of highways abutting defense or war facilities**
4252 **-- Posting of notices.**

4253 [~~Any individual, partnership, association, corporation, municipal corporation or state or~~
4254 ~~any political subdivision thereof engaged in or preparing to engage in the manufacture,~~
4255 ~~transportation or storage of any product to be used in the preparation of the United States or~~
4256 ~~any of the states for defense or for war or in the prosecution of war by the United States, or in~~
4257 ~~the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or~~
4258 ~~any of said natural or artificial persons operating any public utility who has property so used~~
4259 ~~which he or it believes will be endangered if public use and travel is not restricted or prohibited~~
4260 ~~on one or more highways or parts thereof upon which the property abuts, may petition the~~
4261 ~~highway commissioners of any city, town, or county to close one or more of the highways or~~
4262 ~~parts thereof to public use and travel or to restrict by order the use and travel upon one or more~~
4263 ~~of the highways or parts thereof.]~~

4264 [Upon receipt of the petition, the highway commissioners shall set a day for hearing and
4265 give notice of the hearing, as a class A notice under Section ~~63G-30-102~~, for the city, town, or
4266 county, for at least seven days before the day of the hearing. If, after hearing, the highway
4267 commissioners determine that the public safety and the safety of the property of the petitioner
4268 so require, they shall by suitable order close to public use and travel or reasonably restrict the
4269 use of and travel upon one or more of the highways or parts thereof, provided the highway
4270 commissioners may issue written permits to travel over the highway so closed or restricted to
4271 responsible and reputable persons for a term, under conditions and in a form as the
4272 commissioners may prescribe. Appropriate notices in letters at least three inches high shall be

4273 ~~posted conspicuously at each end of any highway so closed or restricted by an order. The~~
4274 ~~highway commissioners may at any time revoke or modify any order so made].~~

4275 (1) As used in this section:

4276 (a) "Highway" means a place used for travel to or from property, including a private or
4277 public street or way.

4278 (b) "Highway commissioner" means an individual, a board, or other body having
4279 authority to restrict or close the highway to public use and travel.

4280 (c) "Public utility" means a system owned or operated for public use, including:

4281 (i) a pipeline system;

4282 (ii) a system for gas, electric, heat, water, oil, sewer, telephone, telegraph, radio,
4283 railway, or transportation communication;

4284 (iii) a railroad; or

4285 (iv) an airplane.

4286 (2) An individual, a partnership, an association, a corporation, a municipal corporation,
4287 the state, or a political subdivision of the state, may petition the highway commissioner of a
4288 city, town, or county to close or restrict travel upon a highway if the individual, partnership,
4289 association, corporation, municipal corporation, state, or political subdivision is:

4290 (a) engaged in or preparing to engage in the manufacture, transportation, or storage of a
4291 product to be used in the preparation of the United States government or a state government for
4292 defense, for war, or in the prosecution of war by the United States government; or

4293 (b) (i) (A) manufacturing, transporting, distributing, or storing gas, oil, coal, electricity,
4294 or water; or

4295 (B) operating a public utility; and

4296 (ii) believes the gas, oil, electricity, water, or public utility will be endangered if public
4297 use and travel is not restricted or prohibited on a highway abutting the property involved in
4298 operating the public utility or manufacturing, transporting, distributing, or storing the gas, oil,
4299 coal, electricity, or water.

4300 (3) Upon receiving a petition described in Subsection (2), the highway commissioner
4301 shall set a day for a public hearing and give notice of the hearing at least seven days before the
4302 day on which the hearing will be held, as a class A notice under Section [63G-30-102](#), for the
4303 city, town, or county.

4304 (4) (a) Subject to Subsection (5), after holding the hearing described in Subsection (3),
4305 the highway commissioner may, after determining that public safety and the safety of the
4306 property of the petitioner require the closure or restricted use of the highway, issue an order to:

4307 (i) close the highway to all public use and travel; or

4308 (ii) reasonably restrict travel on the highway for the safety of the petitioner's property.

4309 (b) Visible notices at least three inches tall detailing the closure or restriction shall be
4310 posted at each end of a highway closed or restricted under this Subsection (4).

4311 (5) A highway commissioner issuing an order under Subsection (4) may issue a permit
4312 to a responsible and reputable individual to travel on a closed or restricted highway under
4313 conditions set by the highway commissioner.

4314 Section 117. Section **76-8-810** is amended to read:

4315 **76-8-810. Violation of an order closing or restricting a highway.**

4316 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-809](#) apply to this
4317 section.

4318 (2) An actor commits violation of an order closing or restricting a highway if the actor
4319 violates an order issued by a highway commissioner closing or restricting a highway under
4320 Section [76-8-809](#).

4321 (3) [~~Whoever violates any order made under the immediate preceding section shall be~~
4322 guilty of] A violation of Subsection (2) is a class C misdemeanor.

4323 Section 118. Section **76-8-811** is amended to read:

4324 **76-8-811. Bargaining rights of employees not impaired by sabotage prevention**
4325 **laws.**

4326 Nothing in this part shall be construed to impair, curtail, or destroy the rights of
4327 employees and [~~their~~] the employees' representatives to self organize, to form, join, or assist
4328 labor organizations, to bargain collectively through representatives of [~~their~~] the employees'
4329 own choosing, and to engage in concerted activities, for the purpose of collective bargaining or
4330 other mutual aid or protection as provided by state or federal laws.

4331 Section 119. Section **76-8-901** is amended to read:

4332 **76-8-901. Definitions.**

4333 [~~For the purpose of~~] As used in this part:

4334 (1) "Criminal syndicalism" [~~is~~] means the doctrine [~~which~~] that advocates crime,

4335 violence, force, arson, destruction of property, sabotage, or other unlawful acts or methods, as a
4336 means of accomplishing or effecting industrial or political ends, or as a means of effecting
4337 industrial or political revolution.

4338 (2) "Sabotage" means the unlawful and intentional damage or injury to, or destruction
4339 of, real or personal property, [~~in any form whatsoever, of any~~] of an employer or owner by [~~his~~
4340 ~~employees, or by any employer, or by any person at the instance of any employer, or at the~~
4341 ~~instance, request, or instigation of employees, or any other person~~] an individual.

4342 Section 120. Section **76-8-902** is amended to read:

4343 **76-8-902. Advocating criminal syndicalism or sabotage.**

4344 [~~Any person who by word of mouth or writing advocates, suggests, or teaches the duty,~~
4345 ~~necessity, propriety, or expediency of crime, criminal syndicalism or sabotage, or who~~
4346 ~~advocates, suggests or teaches the duty, necessity, propriety, or expediency or doing any act of~~
4347 ~~violence, the destruction of or damage to any property, the bodily injury to any person, or the~~
4348 ~~commission of any crime or unlawful act as a means of accomplishing or effecting any~~
4349 ~~industrial or political ends, change or revolution, or who prints, publishes, edits, or issues, or~~
4350 ~~knowingly circulates, sells, or distributes, or publicly displays, any books, pamphlets, paper,~~
4351 ~~handbill, poster, document, or written or printed matter in any form whatsoever, containing,~~
4352 ~~advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, the doing~~
4353 ~~of any act of violence, the destruction of or damage to any property, the injury to any person, or~~
4354 ~~the commission of any crime or unlawful act, as a means of accomplishing, effecting, or~~
4355 ~~bringing about any industrial or political ends or change, or as a means of accomplishing,~~
4356 ~~effecting, or bringing about any industrial or political revolution, or who openly or at all~~
4357 ~~attempts to justify by word of mouth or writing the commission or the attempt to commit~~
4358 ~~sabotage, any act of violence, the destruction of or damage to any property, the injury of any~~
4359 ~~person, or the commission of any crime or unlawful act, with the intent to exemplify, spread, or~~
4360 ~~teach or suggest criminal syndicalism, or organizes, or helps to organize, or becomes a member~~
4361 ~~of, or voluntarily assembles with, any society or assemblage of persons formed to teach or~~
4362 ~~advocate, or which teaches, advocates, or suggests the doctrine of criminal syndicalism or~~
4363 ~~sabotage, or the necessity, propriety, or expediency of doing any act of violence or the~~
4364 ~~commission of any crime or unlawful act as a means of accomplishing or effecting any~~
4365 ~~industrial or political ends, change or revolution, is guilty of a felony of the third degree].~~

4366 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this
4367 section.

4368 (2) An actor commits advocating criminal syndicalism or sabotage if the actor:

4369 (a) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of
4370 crime, criminal syndicalism, or sabotage;

4371 (b) as a means of accomplishing or effecting industrial or political ends, change, or
4372 revolution:

4373 (i) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of
4374 performing an act of violence, destroying or damaging property, causing bodily injury to an
4375 individual, or committing a crime or unlawful act;

4376 (ii) prints, publishes, edits, or issues, or knowingly circulates, sells, distributes, or
4377 publicly displays a book, pamphlet, paper, handbill, poster, document, or written or printed
4378 matter in any form, containing, advocating, advising, suggesting, or teaching crime, criminal
4379 syndicalism, sabotage, performing an act of violence, the destruction of or damage to property,
4380 the injury to an individual, or the commission of a crime or unlawful act; or

4381 (iii) organizes or becomes a member of, or voluntarily assembles with, a society or
4382 assemblage of individuals formed to teach or advocate the doctrine of criminal syndicalism or
4383 sabotage, or the necessity, propriety, or expediency of doing an act of violence or the
4384 commission of a crime or unlawful act; or

4385 (c) with the intent to exemplify, spread, or teach or suggest criminal syndicalism,
4386 attempts to justify sabotage, an act of violence, the destruction of or damage to property, the
4387 injury of an individual, or the commission of a crime or unlawful act.

4388 (3) A violation of Subsection (2) is a third degree felony.

4389 Section 121. Section **76-8-903** is amended to read:

4390 **76-8-903. Assembling for advocating criminal syndicalism or sabotage.**

4391 [~~The assembly or consorting of two or more persons~~]

4392 (1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this
4393 section.

4394 (2) An actor commits assembling for advocating criminal syndicalism or sabotage if
4395 the actor, as a means of accomplishing or effecting industrial or political ends, change, or
4396 revolution:

4397 (a) assembles with two or more individuals; and

4398 (b) assembles for the purpose of advocating, teaching, or suggesting:

4399 (i) the doctrine of criminal syndicalism[~~-, or to advocate, teach, suggest or encourage~~
 4400 sabotage, or]; or

4401 (ii) the duty, necessity, propriety, or expediency of [~~doing any~~] performing an act of
 4402 violence, [~~the destruction of or damage to any~~] destroying or damaging property, [~~the~~] causing
 4403 bodily injury to [~~any person, or the commission of any~~] an individual, or committing a crime or
 4404 unlawful act [~~as a means of accomplishing or effecting any industrial or political ends, change~~
 4405 or revolution, is hereby declared unlawful, and every person voluntarily participating therein,
 4406 or by his presence aiding and instigating the same is guilty of a felony of the third degree].

4407 (3) A violation of Subsection (2) is a third degree felony.

4408 Section 122. Section **76-8-904** is amended to read:

4409 **76-8-904. Permitting the use of property for assembly advocating criminal**
 4410 **syndicalism or sabotage.**

4411 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-901](#) apply to this
 4412 section.

4413 (2) An actor commits permitting the use of property for assembly advocating criminal
 4414 syndicalism or sabotage if the actor:

4415 (a) [~~The~~] is an owner, lessee, agent, superintendent, or [~~person~~] individual in charge or
 4416 occupation of [~~any~~] a place, building, room, or structure[~~, who~~]; and

4417 (b) knowingly permits [~~therein any~~] assembly or consorting of [~~persons~~] individuals
 4418 prohibited [~~by the provisions of~~] under Section [76-8-903](#)[~~, or who after notification that the~~
 4419 place or premises, or any part thereof, is so used, permits such use to be continued, is guilty of
 4420 a class B misdemeanor].

4421 (3) A violation of Subsection (2) is a class B misdemeanor.

4422 Section 123. Section **76-8-1201** is amended to read:

4423 **76-8-1201. Definitions.**

4424 As used in this part:

4425 (1) "Client" means a person who receives or has received public assistance.

4426 (2) "Overpayment" [~~has the same meaning as~~] means the same as that term is defined
 4427 in Section [35A-3-102](#).

4428 (3) "Provider" ~~[has the same meaning as]~~ means the same as that term is defined in
4429 Section [26B-9-101](#).

4430 (4) "Public assistance" ~~[has the same meaning as]~~ means the same as that term is
4431 defined in Section [35A-1-102](#).

4432 Section 124. Section **76-8-1203** is amended to read:

4433 **76-8-1203. Required disclosures by an applicant, a recipient, or a provider of**
4434 **public assistance.**

4435 (1) ~~[Each person]~~ An individual who is 18 years old or older and applies for public
4436 assistance, or who is 18 years old or older and currently receives public assistance, shall
4437 disclose to the state agency administering the public assistance each fact that may materially
4438 affect the ~~[determination of the person's]~~ individual's eligibility to receive or continue to
4439 receive public assistance, including the ~~[person's]~~ individual's current:

4440 (a) marital status;

4441 (b) household composition;

4442 (c) employment;

4443 (d) earned and unearned income, as defined by rule;

4444 (e) receipt of monetary and in-kind gifts that may affect the ~~[person's]~~ individual's
4445 eligibility;

4446 (f) assets that may affect the ~~[person's]~~ individual's eligibility; and

4447 (g) any other material fact or change in circumstance that may affect the determination
4448 of ~~[that person's]~~ the individual's eligibility to receive public assistance benefits, or may affect
4449 the amount of benefits for which the ~~[person]~~ individual is eligible.

4450 ~~[(2) A person applying for public assistance who intentionally, knowingly, or~~
4451 ~~recklessly fails to disclose a material fact required to be disclosed under Subsection (1) is guilty~~
4452 ~~of public assistance fraud as provided in Section [76-8-1206](#).]~~

4453 ~~[(3) With the exception of a client receiving public assistance from the Department of~~
4454 ~~Workforce Services or the Department of Health, a client who intentionally, knowingly, or~~
4455 ~~recklessly fails to disclose to the state agency administering the public assistance a change in a~~
4456 ~~material fact required to be disclosed under Subsection (1), within 10 days after the date of the~~
4457 ~~change, is guilty of public assistance fraud as provided in Section [76-8-1206](#).]~~

4458 ~~[(4) A client who intentionally, knowingly, or recklessly fails to disclose to the~~

4459 ~~Department of Workforce Services or the Department of Health at the time of a review or~~
4460 ~~recertification, whichever comes first, a change in a material fact required to be disclosed under~~
4461 ~~Subsection (1) is guilty of public assistance fraud as provided in Section [76-8-1206](#).]~~

4462 (2) (a) Subject to Subsection (2)(b), a provider that solicits, requests, or receives,
4463 actually or constructively, a payment or contribution in the form of an assessment, a payment, a
4464 gift, a devise, a bequest, or other means, directly or indirectly, from a client or client's family
4465 shall:

4466 (i) notify the state agency administering the public assistance to the client of the
4467 amount of the payment or contribution the provider received from the client or the client's
4468 family; and

4469 (ii) provide the notification to the state agency in writing within 10 days after the day
4470 on which the payment or contribution was received.

4471 (b) If the payment or contribution described in Subsection (2)(a) is made under an
4472 agreement, written or oral, the provider shall notify the state agency administering the public
4473 assistance to the client of the payment or contribution within 10 days after the day on which the
4474 provider entered into the agreement.

4475 (3) An actor may be charged under Section [76-8-1203.1](#), [76-8-1203.3](#), or [76-8-1203.5](#)
4476 for failing to provide information required under this section.

4477 Section 125. Section **76-8-1203.1** is enacted to read:

4478 **76-8-1203.1. Public assistance fraud by an applicant for public assistance.**

4479 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-1201](#) apply to this
4480 section.

4481 (2) An actor commits public assistance fraud by an applicant for public assistance if the
4482 actor intentionally, knowingly, or recklessly:

4483 (a) applies for public assistance; and

4484 (b) fails to disclose a material fact required to be disclosed under Subsection
4485 [76-8-1203\(1\)](#).

4486 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
4487 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

4488 (a) a second degree felony if the value is or exceeds \$5,000;

4489 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

4490 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or

4491 (d) a class B misdemeanor if the value is less than \$500.

4492 (4) It is not a defense to prosecution under this section that the actor repaid the funds or
4493 benefits obtained in violation of this section.

4494 (5) (a) In determining the value of payments, assistance, or other benefits received to
4495 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated
4496 by aggregating the values of each instance of public assistance fraud committed by the actor as
4497 part of the same facts and circumstances or a related series of facts and circumstances.

4498 (b) The value of a benefit received by an individual is the ordinary or usual charge for
4499 similar benefits in the private sector.

4500 (6) The provisions of Section [35A-1-503](#) apply to a prosecution brought under this
4501 section.

4502 Section 126. Section **76-8-1203.3** is enacted to read:

4503 **76-8-1203.3. Public assistance fraud by a recipient of public assistance.**

4504 (1) (a) As used in this section, "SNAP benefit" means the same as that term is defined
4505 in Section [35A-1-102](#).

4506 (b) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-1201](#) apply to this
4507 section.

4508 (2) An actor commits public assistance fraud by a recipient of public assistance if the
4509 actor:

4510 (a) (i) except as provided in Subsection (2)(b), is receiving public assistance
4511 administered by a state agency; and

4512 (ii) intentionally, knowingly, or recklessly fails to disclose to the state agency
4513 administering the public assistance to the actor of a change of a material fact required to be
4514 disclosed under Subsection [76-8-1203](#)(1) within 10 days after the day on which the change
4515 occurred;

4516 (b) (i) is receiving public assistance from the Department of Workforce Services or the
4517 Department of Health and Human Services; and

4518 (ii) at the time of a review or recertification, whichever comes first, intentionally,
4519 knowingly, or recklessly fails to disclose a change of a material fact required to be disclosed
4520 under Subsection [76-8-1203](#)(1);

4521 (c) in a manner not allowed by law, intentionally, knowingly, or recklessly uses,
4522 transfers, acquires, traffics in, falsifies, or possesses:

4523 (i) SNAP benefits;
4524 (ii) a SNAP benefit identification card;
4525 (iii) a certificate of eligibility for medical services;
4526 (iv) a Medicaid identification card;
4527 (v) a fund transfer instrument;
4528 (vi) a payment instrument; or
4529 (vii) a public assistance warrant;

4530 (d) (i) is receiving public assistance;
4531 (ii) acquires income or resources in excess of the amount the actor previously reported
4532 to the state agency administering the public assistance to the actor; and

4533 (iii) fails to notify the state agency to which the actor previously reported within 10
4534 days after the day on which the actor acquired the excess income or resources;

4535 (e) (i) fails to disclose a material fact required to be disclosed under Subsection
4536 76-8-1203(1) or notify a state agency under Subsection 76-8-1203(2); and

4537 (ii) (A) intends to obtain or help another individual obtain an overpayment; or
4538 (B) obtains an overpayment, unauthorized payment, or benefit; or

4539 (f) receives an unauthorized payment or benefit as a result of unlawful acts described in
4540 this section, Section 76-8-1203.3, Section 76-8-1203.5, or Section 76-8-1203.7.

4541 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
4542 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

4543 (a) a second degree felony if the value is or exceeds \$5,000;
4544 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
4545 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
4546 (d) a class B misdemeanor if the value is less than \$500.

4547 (4) It is not a defense to prosecution under this section that the actor repaid the funds or
4548 benefits obtained in violation of this section.

4549 (5) (a) In determining the value of payments, assistance, or other benefits received to
4550 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated
4551 by aggregating the values of each instance of public assistance fraud committed by the actor as

4552 part of the same facts and circumstances or a related series of facts and circumstances.

4553 (b) The value of a benefit received by an individual is the ordinary or usual charge for
4554 similar benefits in the private sector.

4555 (6) The provisions of Section [35A-1-503](#) apply to a prosecution brought under this
4556 section.

4557 (7) Incidents of trafficking in SNAP benefits that occur within a six-month period,
4558 committed by an individual or coconspirators, are deemed to be a related series of facts and
4559 circumstances regardless of whether the transactions are conducted with a variety of unrelated
4560 parties.

4561 Section 127. Section **76-8-1203.5** is enacted to read:

4562 **76-8-1203.5. Public assistance fraud by a provider.**

4563 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-1201](#) apply to this
4564 section.

4565 (2) An actor commits public assistance fraud by a provider if the actor:

4566 (a) is a provider; and

4567 (b) intentionally, knowingly, or recklessly:

4568 (i) receives a payment after failing to comply with the requirements in Subsection
4569 [76-8-1203\(1\)](#) or [76-8-1203\(2\)](#);

4570 (ii) files a claim for payment under a state or federally funded public assistance
4571 program for goods or services not provided to or for a client under that program;

4572 (iii) files or falsifies a claim, report, or document required by a state or federal law, a
4573 rule, or a provider agreement for goods or services not authorized under the state or federally
4574 funded public assistance program for which the goods or services were provided;

4575 (iv) fails to credit the state for payments received from other sources;

4576 (v) bills a client, or the client's family, for:

4577 (A) goods or services not provided; or

4578 (B) an amount greater than that allowed by law or rule; or

4579 (vi) fails to comply with the notification requirements under Subsection [76-8-1203\(2\)](#).

4580 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
4581 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

4582 (a) a second degree felony if the value is or exceeds \$5,000;

- 4583 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
4584 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
4585 (d) a class B misdemeanor if the value is less than \$500.
- 4586 (4) It is not a defense to prosecution under this section that the actor repaid the funds or
4587 benefits obtained in violation of this section.
- 4588 (5) (a) In determining the value of payments, assistance, or other benefits received to
4589 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated
4590 by aggregating the values of each instance of public assistance fraud committed by the actor as
4591 part of the same facts and circumstances or a related series of facts and circumstances.
- 4592 (b) The value of a benefit received by an individual is the ordinary or usual charge for
4593 similar benefits in the private sector.
- 4594 (6) This section does not apply to offenses by providers under the state's Medicaid
4595 program that are actionable under Title 26B, Chapter 3, Part 11, Utah False Claims Act.
- 4596 (7) The provisions of Section [35A-1-503](#) apply to a prosecution brought under this
4597 section.
- 4598 Section 128. Section **76-8-1203.7** is enacted to read:
- 4599 **76-8-1203.7. Fraudulently misappropriating public assistance funds.**
- 4600 (1) Terms defined in Sections [76-1-101.5](#), [76-8-101](#), and [76-8-1201](#) apply to this
4601 section.
- 4602 (2) An actor commits fraudulently misappropriating public assistance funds if the
4603 actor:
- 4604 (a) (i) is an administrator of a state or federally funded public assistance program; and
4605 (ii) while performing the actor's duties as an administrator, intentionally, knowingly, or
4606 recklessly fraudulently misappropriates funds exchanged for:
- 4607 (A) SNAP benefits;
4608 (B) an identification card;
4609 (C) a certificate of eligibility for medical services;
4610 (D) a Medicaid identification card; or
4611 (E) other public assistance the actor has been entrusted with or that has come into the
4612 actor's possession as a result of the actor's duties; or
- 4613 (b) (i) is an individual entrusted with:

4614 (A) SNAP benefits;
4615 (B) an identification card;
4616 (C) a certificate of eligibility for medical services;
4617 (D) a Medicaid identification card; or
4618 (E) other public assistance with which the individual has been entrusted; and
4619 (ii) intentionally, knowingly, or recklessly fraudulently misappropriates funds
4620 exchanged for a benefit described in Subsection (2)(b)(i) with which the individual has been
4621 entrusted.

4622 (3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
4623 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

- 4624 (a) a second degree felony if the value is or exceeds \$5,000;
- 4625 (b) a third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;
- 4626 (c) a class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500; or
- 4627 (d) a class B misdemeanor if the value is less than \$500.

4628 (4) It is not a defense to prosecution under this section that the actor repaid the funds or
4629 benefits obtained in violation of this section.

4630 (5) (a) In determining the value of payments, assistance, or other benefits received to
4631 determine the penalty level of an actor's conduct under Subsection (3), the value is calculated
4632 by aggregating the values of each instance of public assistance fraud committed by the actor as
4633 part of the same facts and circumstances or a related series of facts and circumstances.

4634 (b) The value of a benefit received by an individual is the ordinary or usual charge for
4635 similar benefits in the private sector.

4636 (6) The provisions of Section [35A-1-503](#) apply to a prosecution brought under this
4637 section.

4638 Section 129. Section **76-8-1207** is amended to read:

4639 **76-8-1207. Evidence in criminal actions for public assistance fraud.**

4640 In ~~[any]~~ a criminal action ~~[pursuant to]~~ under this part:

4641 (1) a paid state warrant made to the order of ~~[a party]~~ an individual or a payment made
4642 through an electronic benefit card issued to ~~[a party]~~ an individual constitutes prima facie
4643 evidence that the ~~[party]~~ individual received financial assistance from the state; and

4644 (2) all of the records in the custody of the ~~[department]~~ state agency administering

4645 public assistance relating to the application for, verification of, issuance of, receipt of, and use
 4646 of public assistance constitute records of regularly conducted activity within the meaning of the
 4647 exceptions to the hearsay rule of evidence[;].

4648 ~~[(3) the value of the benefits received shall be based on the ordinary or usual charge for~~
 4649 ~~similar benefits in the private sector; and]~~

4650 ~~[(4) the repayment of funds or other benefits obtained in violation of the provisions of~~
 4651 ~~this part constitutes no defense to, or ground for dismissal of, that action.]~~

4652 Section 130. Section **76-8-1301** is amended to read:

4653 **76-8-1301. False statement to obtain or increase unemployment compensation.**

4654 (1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4655 ~~[(a) A person who makes a false statement or representation knowing it to be false or~~
 4656 ~~knowingly fails to disclose a material fact;]~~

4657 (2) An actor commits false statement to obtain or increase unemployment
 4658 compensation if the actor, to obtain or increase a benefit or other payment under Title 35A,
 4659 Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any
 4660 state or of the federal government [for any person is guilty of unemployment insurance fraud.];

4661 (a) makes a false statement or representation, knowing the representation is false; or

4662 (b) knowingly fails to disclose a material fact.

4663 ~~[(b)]~~ (3) (a) A violation of Subsection [(1)(a)] (2) is:

4664 (i) a class B misdemeanor ~~[when]~~ if the value of the money obtained or sought to be
 4665 obtained is less than \$500;

4666 (ii) a class A misdemeanor ~~[when]~~ if the value of the money obtained or sought to be
 4667 obtained is or exceeds \$500 but is less than \$1,500;

4668 (iii) a third degree felony ~~[when]~~ if the value of the money obtained or sought to be
 4669 obtained is or exceeds \$1,500 but is less than \$5,000; or

4670 (iv) a second degree felony ~~[when]~~ if the value of the money obtained or sought to be
 4671 obtained is or exceeds \$5,000.

4672 ~~[(c)]~~ (b) The determination of the degree of an offense under Subsection [(1)(b)] shall
 4673 be (3)(a) is measured by the total value of all money obtained or sought to be obtained by the
 4674 unlawful conduct.

4675 ~~[(2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or~~

4676 any other person who makes a false statement or representation knowing it to be false, or who
4677 knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment
4678 compensation benefits to an individual entitled to those benefits, or to avoid becoming or
4679 remaining a subject employer or to avoid or reduce any contribution or other payment required
4680 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the
4681 Unemployment Compensation Law of any state or of the federal government, or who willfully
4682 fails or refuses to make a contribution or other payment or to furnish any report required in
4683 Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or
4684 copying of records as required under that chapter is guilty of unemployment insurance fraud.]

4685 [(b) A violation of Subsection (2)(a) is:]

4686 [(i) a class B misdemeanor when the value of the money obtained or sought to be
4687 obtained is less than \$500;]

4688 [(ii) a class A misdemeanor when the value of the money obtained or sought to be
4689 obtained is or exceeds \$500 but is less than \$1,500;]

4690 [(iii) a third degree felony when the value of the money obtained or sought to be
4691 obtained is or exceeds \$1,500 but is less than \$5,000; or]

4692 [(iv) a second degree felony when the value of the money obtained or sought to be
4693 obtained is or exceeds \$5,000;]

4694 [(3) (a) A person who willfully violates any provision of Title 35A, Chapter 4,
4695 Employment Security Act, or any order made under that chapter, the violation of which is made
4696 unlawful or the observance of which is required under the terms of that chapter, and for which
4697 a penalty is neither prescribed in that chapter nor provided by any other applicable statute is
4698 guilty of a class A misdemeanor.]

4699 [(b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.]

4700 [(4) A person is guilty of a class C misdemeanor if:]

4701 [(a) as an employee of the Department of Workforce Services, in willful violation of
4702 Section ~~35A-4-312~~, the employee makes a disclosure of information obtained from an
4703 employing unit or individual in the administration of Title 35A, Chapter 4, Employment
4704 Security Act; or]

4705 [(b) the person has obtained a list of applicants for work or of claimants or recipients of
4706 benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of

4707 ~~the list for any political purpose.]~~

4708 Section 131. Section **76-8-1302** is enacted to read:

4709 **76-8-1302. False statement to prevent or reduce unemployment compensation or**
4710 **liability.**

4711 (1) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

4712 (2) An actor commits false statement to prevent or reduce unemployment
4713 compensation or liability if the actor, to prevent or reduce the payment of unemployment
4714 compensation benefits to an individual entitled to those benefits, or to avoid becoming or
4715 remaining a subject employer, or to avoid or reduce a contribution or other payment required
4716 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the
4717 Unemployment Compensation Law of a state or of the federal government:

4718 (a) makes a false statement or representation, knowing the representation is false; or

4719 (b) knowingly fails to disclose a material fact.

4720 (3) A violation of Subsection (2) is:

4721 (a) a class B misdemeanor if the value of the money obtained or sought to be obtained
4722 is less than \$500;

4723 (b) a class A misdemeanor if the value of the money obtained or sought to be obtained
4724 is or exceeds \$500 but is less than \$1,500;

4725 (c) a third degree felony if the value of the money obtained or sought to be obtained is
4726 or exceeds \$1,500 but is less than \$5,000; or

4727 (d) a second degree felony if the value of the money obtained or sought to be obtained
4728 is or exceeds \$5,000.

4729 (4) An actor under this section may include an officer or agent of an employing unit as
4730 defined under Section [35A-4-202](#).

4731 Section 132. Section **76-8-1303** is enacted to read:

4732 **76-8-1303. Unlawful failure to comply with Employment Security Act**
4733 **requirement.**

4734 (1) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

4735 (2) An actor commits unlawful failure to comply with Employment Security Act
4736 requirements if the actor willfully:

4737 (a) fails or refuses:

4738 (i) to make a contribution or other payment required under Title 35A, Chapter 4,
4739 Employment Security Act;
4740 (ii) to furnish a report required under Title 35A, Chapter 4, Employment Security Act;
4741 or
4742 (iii) to produce or permit the inspection or copying of records required under Title
4743 35A, Chapter 4, Employment Security Act; or
4744 (b) violates a provision of Title 35A, Chapter 4, Employment Security Act, or an order
4745 made under that chapter, for which the violation:
4746 (i) is made unlawful or the observance of which is required under the terms of Title
4747 35A, Chapter 4, Employment Security Act;
4748 (ii) does not have a prescribed penalty in Title 35A, Chapter 4, Employment Security
4749 Act, or another applicable statute; and
4750 (iii) is for conduct not described in Subsection (2)(a).
4751 (3) (a) A violation of Subsection (2)(a) is:
4752 (i) a class B misdemeanor if the value of the money obtained or sought to be obtained
4753 is less than \$500;
4754 (ii) a class A misdemeanor if the value of the money obtained or sought to be obtained
4755 is or exceeds \$500 but is less than \$1,500;
4756 (iii) a third degree felony if the value of the money obtained or sought to be obtained is
4757 or exceeds \$1,500 but is less than \$5,000; or
4758 (iv) a second degree felony if the value of the money obtained or sought to be obtained
4759 is or exceeds \$5,000.
4760 (b) A violation of Subsection (2)(b) is a class A misdemeanor.
4761 (4) An actor under this section may include an officer or agent of an employing unit as
4762 defined under Section [35A-4-202](#).
4763 Section 133. Section **76-8-1304** is enacted to read:
4764 **76-8-1304. Unlawful use or disclosure of employment information.**
4765 (1) (a) As used in this section, "employing unit" means the same as that term is defined
4766 in Section [35A-4-202](#).
4767 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.
4768 (2) An actor commits unlawful use or disclosure of employment information if the

4769 actor:

4770 (a) (i) is an employee of the Department of Workforce Services; and

4771 (ii) willfully violates Section 35A-4-312 by making a disclosure of information

4772 obtained from an employing unit or individual in the administration of Title 35A, Chapter 4,

4773 Employment Security Act; or

4774 (b) (i) obtains a list of applicants for work or of claimants or recipients of benefits

4775 under Title 35A, Chapter 4, Employment Security Act; and

4776 (ii) uses or permits the use of the list described in Subsection (2)(b)(i) for a political

4777 purpose.

4778 (3) A violation of Subsection (2) is a class C misdemeanor.

4779 Section 134. Section **76-8-1402** is amended to read:

4780 **76-8-1402. Disruption of activity in or near school building.**

4781 (1) (a) As used in this section:

4782 (i) (A) "Chief administrator" means the principal of a school or the chief administrator

4783 of a school that does not have a principal.

4784 (B) "Chief administrator" includes the chief administrator's designee or representative.

4785 (ii) "School" means a public or private kindergarten, elementary, or secondary school

4786 through grade 12.

4787 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

4788 (2) In the absence of a local ordinance or other controlling law governing the conduct

4789 described in this Subsection [(1), a person is guilty of an offense under Subsection (2) who,]

4790 (2), an actor commits disruption of activity in or near school building if the actor, while on a

4791 street, sidewalk, or public way adjacent to [any] a school building or ground:

4792 (a) [by his or her presence or acts,] materially disrupts the peaceful conduct of school

4793 activities by the actor's presence or act; and

4794 (b) remains upon the place under Subsection [(1)(a)] (2)(a) after being asked to leave

4795 by the chief administrator of that school.

4796 [(2)(a) A violation of Subsection (1) is subject to the penalties under Subsection (2)(b)

4797 unless the violation constitutes another offense subject to a greater penalty.]

4798 [(b) (i) The]

4799 (3) (a) Except as provided under Subsection (4), a first [and] or second violation of

4800 Subsection ~~[(1) are]~~ (2) is a class B ~~[misdemeanors]~~ misdemeanor.

4801 ~~[(ii) A third and any subsequent violations of Subsection (1) are class A~~
4802 ~~misdemeanors]~~

4803 (b) Except as provided under Subsection (4), a third or subsequent violation of
4804 Subsection (2) is a class A misdemeanor.

4805 (4) If an actor's conduct violates Subsection (2) and the actor's conduct also amounts to
4806 a violation of another offense with a greater penalty, the offense with the greater penalty
4807 applies.

4808 Section 135. Section **76-8-1403** is amended to read:

4809 **76-8-1403. Unlawful evasion of law enforcement by entering school property--**
4810 **Restitution.**

4811 (1) (a) As used in this section:

4812 ~~[(a)]~~ (i) "School" means ~~[any]~~ a public or private kindergarten, elementary, or
4813 secondary school through grade 12, including all buildings and property of the school.

4814 ~~[(b)]~~ (ii) "School property" means real property:

4815 ~~[(i)]~~ (A) that is owned or occupied by a public or private school; or

4816 ~~[(ii)]~~ (B) ~~[(A)]~~ (I) that is temporarily occupied by students for a school-related activity
4817 or program; and

4818 ~~[(B)]~~ (II) regarding which, during the time the activity or program is being conducted,
4819 the main use of the real property is allocated to participants in the activity or program.

4820 (b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

4821 (2) ~~[A person is guilty of the class A misdemeanor of evading]~~ An actor commits
4822 unlawful evasion of law enforcement ~~[while on]~~ by entering school property ~~[, if the person]~~ if
4823 the actor enters onto school property when:

4824 (a) students are attending the school or students are participating in any school-related
4825 activity or program on school property; and

4826 (b) the ~~[person]~~ actor is in the act of fleeing or evading, or attempting to flee or evade,
4827 pursuit or apprehension by ~~[any]~~ a peace officer.

4828 (3) A violation of Subsection (2) is a class A misdemeanor.

4829 ~~[(3)]~~ (4) It is not a defense to a violation of this section that the ~~[person]~~ actor did not
4830 know that the ~~[person]~~ actor had entered onto school property.

4831 ~~[(4)]~~ (5) As a part of the sentence for violation of this section, the court shall order the
4832 [~~defendant~~] actor to reimburse the school for costs incurred by the school in responding to the
4833 [~~defendant's~~] actor's presence on the school property.

4834 ~~[(5)]~~ (6) The offense under this section [~~of evading law enforcement while on school~~
4835 ~~property~~] is a separate offense from a violation of:

4836 (a) [~~Section 41-6a-210, regarding~~] failure to respond to [~~an~~] officer's signal to stop
4837 under Section 41-6a-210; or

4838 (b) [~~Section 76-8-305.5, regarding~~] failure to stop at the command of a peace officer
4839 under Section 76-8-305.5.

4840 Section 136. Section **76-9-802** is amended to read:

4841 **76-9-802. Definitions.**

4842 As used in this part:

4843 (1) "Criminal street gang" means an organization, association in fact, or group of three
4844 or more persons, whether operated formally or informally:

4845 (a) that is currently in operation;

4846 (b) that has as one of its primary activities the commission of one or more predicate
4847 gang crimes;

4848 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

4849 (d) whose members, acting individually or in concert with other members, engage in or
4850 have engaged in a pattern of criminal gang activity.

4851 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
4852 harm for the purpose of causing an individual to act or refrain from acting.

4853 (3) "Minor" means a person younger than 18 years old.

4854 (4) "Pattern of criminal gang activity" means:

4855 (a) committing, attempting to commit, conspiring to commit, or soliciting the
4856 commission of two or more predicate gang crimes within five years;

4857 (b) the predicate gang crimes are:

4858 (i) committed by two or more persons; or

4859 (ii) committed by an individual at the direction of, or in association with a criminal
4860 street gang; and

4861 (c) the criminal activity was committed with the specific intent to promote, further, or

4862 assist in any criminal conduct by members of the criminal street gang.
4863 (5) (a) "Predicate gang crime" means any of the following offenses:
4864 (i) Title 41, Chapter 1a, Motor Vehicle Act:
4865 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
4866 identification number;
4867 (B) Section 41-1a-1315, regarding false evidence of title and registration;
4868 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
4869 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
4870 identification number; or
4871 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
4872 (ii) any criminal violation of the following provisions:
4873 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
4874 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
4875 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
4876 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
4877 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
4878 (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
4879 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
4880 offenses;
4881 (vi) any a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
4882 (vii) Title 76, Chapter 6, Part 1, Property Destruction;
4883 (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
4884 (ix) Title 76, Chapter 6, Part 3, Robbery;
4885 (x) any a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,
4886 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408,
4887 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410,
4888 and 76-6-410.5;
4889 (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
4890 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517,
4891 76-6-518, and 76-6-520;
4892 (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

4893 (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
 4894 Sections [76-8-302](#), [76-8-303](#), [76-8-307](#), [76-8-308](#), and [76-8-312](#);

4895 (xiv) [~~Section [76-8-508](#), which includes~~] tampering with a witness under Section
 4896 [76-8-508](#);

4897 (xv) [~~Section [76-8-508.3](#), which includes~~] retaliation against a witness [~~or~~], victim, or
 4898 informant under Section [76-8-509.3](#);

4899 (xvi) receiving or soliciting a bribe as a witness under Section [76-8-508.7](#);

4900 [~~(xvi)~~] (xvii) [~~Section [76-8-509](#), which includes~~] extortion or bribery to dismiss a
 4901 criminal proceeding under Section [76-8-509](#);

4902 [~~(xvii)~~] (xviii) a misdemeanor violation of disorderly conduct under Section [76-9-102](#),
 4903 if the violation occurs at an official meeting;

4904 [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 3, Explosives;

4905 [~~(xix)~~] (xx) Title 76, Chapter 10, Part 5, Weapons;

4906 [~~(xx)~~] (xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

4907 [~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

4908 [~~(xxii)~~] (xxiii) [~~Section [76-10-1801](#), which addresses~~] communications fraud under
 4909 Section [76-10-1801](#);

4910 [~~(xxiii)~~] (xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency
 4911 Transaction Reporting Act; or

4912 [~~(xxiv)~~] (xxv) [~~Section [76-10-2002](#), which addresses~~] burglary of a research facility
 4913 under Section [76-10-2002](#).

4914 (b) "Predicate gang crime" also includes:

4915 (i) any state or federal criminal offense that by its nature involves a substantial risk that
 4916 physical force may be used against another in the course of committing the offense; and

4917 (ii) any felony violation of a criminal statute of any other state, the United States, or
 4918 any district, possession, or territory of the United States which would constitute a violation of
 4919 any offense in Subsection (4)(a) if committed in this state.

4920 Section 137. Section **76-9-902** is amended to read:

4921 **76-9-902. Definitions.**

4922 As used in this part:

4923 (1) "Criminal street gang" means an organization, association in fact, or group of three

4924 or more persons, whether operated formally or informally:

4925 (a) that is currently in operation;

4926 (b) that has as one of its substantial activities the commission of one or more predicate
4927 gang crimes;

4928 (c) that has, as a group, an identifying name or an identifying sign or symbol, or both;
4929 and

4930 (d) whose members, acting individually or in concert with other members, engage in or
4931 have engaged in a pattern of criminal gang activity.

4932 (2) "Gang loitering" means a person remains in one place under circumstances that
4933 would cause a reasonable person to believe that the purpose or effect of that behavior is to
4934 enable or facilitate a criminal street gang to:

4935 (a) establish control over one or more identifiable areas;

4936 (b) intimidate others from entering those areas; or

4937 (c) conceal illegal activities.

4938 (3) "Pattern of criminal gang activity" means committing, attempting to commit,
4939 conspiring to commit, or soliciting the commission of two or more predicate gang crimes
4940 within five years, if the predicate gang crimes are committed:

4941 (a) (i) by two or more persons; or

4942 (ii) by an individual at the direction of or in association with a criminal street gang; and

4943 (b) with the specific intent to promote, further, or assist in any criminal conduct by
4944 members of a criminal street gang.

4945 (4) (a) "Predicate gang crime" means any of the following offenses:

4946 (i) ~~any~~ a criminal violation of:

4947 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

4948 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

4949 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

4950 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

4951 (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

4952 (iii) Title 76, Chapter 5, Part 2, Criminal Homicide;

4953 (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related
4954 offenses;

- 4955 (v) [~~any~~] a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 4956 (vi) Title 76, Chapter 6, Part 1, Property Destruction;
- 4957 (vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 4958 (viii) Title 76, Chapter 6, Part 3, Robbery;
- 4959 (ix) [~~any~~] a felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections
- 4960 [76-6-404.5](#), [76-6-405](#), [76-6-407](#), [76-6-408](#), [76-6-409](#), [76-6-409.1](#), [76-6-409.3](#), [76-6-409.6](#),
- 4961 [76-6-409.7](#), [76-6-409.8](#), [76-6-409.9](#), [76-6-410](#), and [76-6-410.5](#);
- 4962 (x) Title 76, Chapter 6, Part 5, Fraud, except Sections [76-6-504](#), [76-6-505](#), [76-6-507](#),
- 4963 [76-6-508](#), [76-6-509](#), [76-6-510](#), [76-6-511](#), [76-6-512](#), [76-6-513](#), [76-6-514](#), [76-6-516](#), [76-6-517](#),
- 4964 [76-6-518](#), and [76-6-520](#);
- 4965 (xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 4966 (xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections
- 4967 [76-8-302](#), [76-8-303](#), [76-8-307](#), [76-8-308](#), and [76-8-312](#);
- 4968 (xiii) [~~Section 76-8-508, which includes~~] tampering with a witness under Section
- 4969 [76-8-508](#);
- 4970 (xiv) [~~Section 76-8-508.3, which includes~~] retaliation against a witness [~~or~~], victim, or
- 4971 informant under Section 76-8-508.3;
- 4972 (xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 4973 [~~(xvi)~~] (xvi) [~~Section 76-8-509, which includes~~] extortion or bribery to dismiss a
- 4974 criminal proceeding under Section 76-8-509;
- 4975 [~~(xvi)~~] (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if
- 4976 the violation occurs at an official meeting;
- 4977 [~~(xvii)~~] (xviii) Title 76, Chapter 10, Part 3, Explosives;
- 4978 [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 5, Weapons;
- 4979 [~~(xix)~~] (xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 4980 [~~(xx)~~] (xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 4981 [~~(xxi)~~] (xxii) [~~Section 76-10-1801, which addresses~~] communications fraud under
- 4982 Section 76-10-1801;
- 4983 [~~(xxii)~~] (xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency
- 4984 Transaction Reporting Act;
- 4985 [~~(xxiii)~~] (xxiv) [~~Section 76-10-2002, which addresses~~] burglary of a research facility[;

4986 and] under Section 76-10-2002; or
4987 [~~(xxiv)~~] (xxv) Title 41, Chapter 1a, Motor Vehicle Act:
4988 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
4989 identification number;
4990 (B) Section 41-1a-1315, regarding false evidence of title and registration;
4991 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
4992 (D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification
4993 number; and
4994 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.
4995 (b) "Predicate gang crime" also includes:
4996 (i) any state or federal criminal offense that by its nature involves a substantial risk that
4997 physical force may be used against another in the course of committing the offense; and
4998 (ii) any felony violation of a criminal statute of any other state, the United States, or
4999 any district, possession, or territory of the United States which would constitute any offense in
5000 Subsection (4)(a) if committed in this state.
5001 (5) (a) "Public place" means any location or structure to which the public or a
5002 substantial group of the public has access, and includes:
5003 (i) a sidewalk, street, or highway;
5004 (ii) a public park, public recreation facility, or any other area open to the public;
5005 (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or
5006 playhouse, or the parking lot or structure adjacent to any of these; and
5007 (iv) the common areas of schools, hospitals, apartment houses, office buildings,
5008 transport facilities, and businesses.
5009 (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other
5010 dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).
5011 Section 138. Section **76-9-1008** is amended to read:
5012 **76-9-1008. Proof of immigration status required to receive public benefits.**
5013 (1) (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec.
5014 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:
5015 (i) as provided in Subsection 63G-12-402(3)(g) or (k); or
5016 (ii) when compliance is exempted by federal law or when compliance could reasonably

5017 be expected to be grounds for the federal government to withhold federal Medicaid funding.

5018 (b) The agency shall verify a person's lawful presence in the United States by requiring
5019 that the applicant under this section sign a certificate under penalty of perjury, stating that the
5020 applicant:

5021 (i) is a United States citizen; or

5022 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

5023 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer
5024 that providing false information subjects the signer to penalties for perjury.

5025 (d) The signature under this Subsection (1) may be executed in person or
5026 electronically.

5027 (e) When an applicant who is a qualified alien has executed the certificate under this
5028 section, the applicant's eligibility for benefits shall be verified by the agency through the federal
5029 SAVE program or an equivalent program designated by the United States Department of
5030 Homeland Security.

5031 (2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
5032 statement of representation in a certificate executed under this section is guilty of public
5033 assistance fraud by an applicant for public assistance under Section ~~[76-8-1205]~~ [76-8-1203.1](#).

5034 (3) If the certificate constitutes a false claim of United States citizenship under 18
5035 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United
5036 States Attorney for the applicable federal judicial district based upon the venue in which the
5037 certificate was executed.

5038 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations
5039 to the requirements of the provisions of this section that provide for adjudication of unique
5040 individual circumstances where the verification procedures in this section would impose
5041 unusual hardship on a legal resident of this state.

5042 (5) If an agency under Subsection (1) receives verification that a person making an
5043 application for any benefit, service, or license is not a qualified alien, the agency shall provide
5044 the information to the local law enforcement agency for enforcement of ~~[Section 76-8-1205]~~
5045 public assistance fraud by an applicant for public assistance under Section [76-8-1203.1](#) unless
5046 prohibited by federal mandate.

5047 Section 139. Section **76-10-306** is amended to read:

5048 **76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions --**
5049 **Persons exempted -- Penalties.**

5050 (1) As used in this section:

5051 (a) "Explosive, chemical, or incendiary device" means:

5052 (i) dynamite and all other forms of high explosives, including water gel, slurry, military
5053 C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel
5054 oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting
5055 caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid
5056 explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other
5057 chemical mixture intended to explode with fire or force;

5058 (ii) any explosive bomb, grenade, missile, or similar device; and

5059 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device,
5060 including any device, except kerosene lamps, if criminal intent has not been established, which
5061 consists of or includes a breakable container including a flammable liquid or compound and a
5062 wick composed of any material which, when ignited, is capable of igniting the flammable
5063 liquid or compound or any breakable container which consists of, or includes a chemical
5064 mixture that explodes with fire or force and can be carried, thrown, or placed.

5065 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or
5066 shotgun ammunition, reloading components, or muzzleloading equipment.

5067 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or
5068 combinations which have been prepared or altered for use in the creation of an explosive,
5069 chemical, or incendiary device. These substances or materials include:

5070 (i) timing device, clock, or watch which has been altered in such a manner as to be
5071 used as the arming device in an explosive;

5072 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

5073 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time
5074 delays, or commercially made or improvised items which, when used singly or in combination,
5075 may be used in the construction of a timing delay mechanism, booby trap, or activating
5076 mechanism for any explosive, chemical, or incendiary device.

5077 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun
5078 ammunition, or any signaling device customarily used in operation of railroad equipment.

- 5079 (2) The provisions in Subsections (3) and (6) do not apply to:
- 5080 (a) any public safety officer while acting in an official capacity transporting or
- 5081 otherwise handling explosives, chemical, or incendiary devices;
- 5082 (b) any member of the armed forces of the United States or Utah National Guard while
- 5083 acting in an official capacity;
- 5084 (c) any person possessing a valid permit issued under the provisions of Uniform Fire
- 5085 Code, Article 77, or any employee of the permittee acting within the scope of employment;
- 5086 (d) any person possessing a valid license as an importer, wholesaler, display operator,
- 5087 special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and
- 5088 53-7-223; and
- 5089 (e) any person or entity possessing or controlling an explosive, chemical, or incendiary
- 5090 device as part of its lawful business operations.
- 5091 (3) Any person is guilty of a second degree felony who, under circumstances not
- 5092 amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or
- 5093 recklessly possesses or controls an explosive, chemical, or incendiary device.
- 5094 (4) Any person is guilty of a first degree felony who, under circumstances not
- 5095 amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:
- 5096 (a) uses or causes to be used an explosive, chemical, or incendiary device in the
- 5097 commission of or an attempt to commit a felony;
- 5098 (b) injures another or attempts to injure another person or another person's property
- 5099 through the use of an explosive, chemical, or incendiary device; or
- 5100 (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
- 5101 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or
- 5102 78A-2-203.
- 5103 (5) Any person who, under circumstances not amounting to a violation of Part 4,
- 5104 Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be
- 5105 removed or carries away any explosive, chemical, or incendiary device from the premises
- 5106 where the explosive, chemical, or incendiary device is kept by the lawful user, vendor,
- 5107 transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of
- 5108 a second degree felony.
- 5109 (6) Any person who, under circumstances not amounting to a violation of Part 4,

5110 Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive,
5111 chemical, or incendiary parts is guilty of a third degree felony.

5112 Section 140. Section **76-10-1602** is amended to read:

5113 **76-10-1602. Definitions.**

5114 As used in this part:

5115 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
5116 business trust, association, or other legal entity, and any union or group of individuals
5117 associated in fact although not a legal entity, and includes illicit as well as licit entities.

5118 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
5119 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
5120 have the same or similar purposes, results, participants, victims, or methods of commission, or
5121 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
5122 demonstrate continuing unlawful conduct and be related either to each other or to the
5123 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
5124 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
5125 activity as defined by this part shall have occurred within five years of the commission of the
5126 next preceding act alleged as part of the pattern.

5127 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
5128 interest in property, including state, county, and local governmental entities.

5129 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
5130 command, encourage, or intentionally aid another person to engage in conduct which would
5131 constitute any offense described by the following crimes or categories of crimes, or to attempt
5132 or conspire to engage in an act which would constitute any of those offenses, regardless of
5133 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
5134 or a felony:

5135 (a) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 13, Chapter 10,
5136 Unauthorized Recording Practices Act;

5137 (b) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 19,
5138 Environmental Quality Code, Sections **19-1-101** through **19-7-109**;

5139 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
5140 purpose of sale, trade, or other pecuniary gain~~[, in violation of]~~ under Title 23A, Wildlife

5141 Resources Act, or Section [23A-5-311](#);

5142 (d) false claims for medical benefits, kickbacks, ~~[and any]~~ or other ~~[act]~~ acts prohibited

5143 ~~[by]~~ under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections [26B-3-1101](#) through

5144 [26B-3-1112](#);

5145 (e) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 32B, Chapter 4,

5146 Criminal Offenses and Procedure Act;

5147 (f) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 57, Chapter 11,

5148 Utah Uniform Land Sales Practices Act;

5149 (g) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 58, Chapter 37,

5150 Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances

5151 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,

5152 Clandestine Drug Lab Act;

5153 (h) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 61, Chapter 1,

5154 Utah Uniform Securities Act;

5155 (i) ~~[any]~~ an act prohibited by the criminal provisions ~~[of]~~ under Title 63G, Chapter 6a,

5156 Utah Procurement Code;

5157 (j) assault ~~[or aggravated assault, Sections]~~ under Section [76-5-102](#) ~~[and]~~;

5158 (k) aggravated assault under Section [76-5-103](#);

5159 ~~[(k)]~~ (l) a threat of terrorism~~;~~ under Section [76-5-107.3](#);

5160 ~~[(l)]~~ (m) a criminal homicide offense~~;~~ ~~[as described in]~~ under Section [76-5-201](#);

5161 ~~[(m)]~~ (n) kidnapping ~~[or aggravated kidnapping, Sections]~~ under Section [76-5-301](#)

5162 ~~[and]~~;

5163 (o) aggravated kidnapping under Section [76-5-302](#);

5164 ~~[(n)]~~ (p) human trafficking~~;~~ for labor under Section [76-5-308](#);

5165 (q) human trafficking for sexual exploitation under Section [76-5-308.1](#);

5166 (r) human smuggling under Section [76-5-308.3](#);

5167 (s) human trafficking of a child~~;~~ ~~[human smuggling, or aggravated human trafficking,~~

5168 ~~Sections [76-5-308](#), [76-5-308.1](#), [76-5-308.3](#);~~ under Section [76-5-308.5](#)~~;~~];

5169 (t) benefiting from trafficking and human smuggling under Section [76-5-309](#)~~;~~ ~~[and]~~;

5170 (u) aggravated human trafficking under Section [76-5-310](#);

5171 ~~[(o)]~~ (v) sexual exploitation of a minor ~~[or]~~ under Section [76-5b-201](#);

5172 (w) aggravated sexual exploitation of a minor~~[; Sections 76-5b-201 and]~~ under Section
5173 76-5b-201.1;

5174 ~~[(p)]~~ (x) arson under Section 76-6-102;

5175 (y) ~~[or]~~ aggravated arson~~[; Sections 76-6-102 and]~~ under Section 76-6-103;

5176 ~~[(q)]~~ (z) causing a catastrophe~~[;]~~ under Section 76-6-105;

5177 ~~[(r)]~~ (aa) burglary under Section 76-6-202;

5178 (bb) ~~[or]~~ aggravated burglary~~[; Sections 76-6-202 and]~~ under Section 76-6-203;

5179 ~~[(s)]~~ (cc) burglary of a vehicle~~[;]~~ under Section 76-6-204;

5180 ~~[(t)]~~ (dd) manufacture or possession of an instrument for burglary or theft~~[;]~~ under
5181 Section 76-6-205;

5182 ~~[(u)]~~ (ee) robbery under Section 76-6-301;

5183 (ff) ~~[or]~~ aggravated robbery~~[; Sections 76-6-301 and]~~ under Section 76-6-302;

5184 ~~[(v)]~~ (gg) theft~~[;]~~ under Section 76-6-404;

5185 ~~[(w)]~~ (hh) theft by deception~~[;]~~ under Section 76-6-405;

5186 ~~[(x)]~~ (ii) theft by extortion~~[;]~~ under Section 76-6-406;

5187 ~~[(y)]~~ (jj) receiving stolen property~~[;]~~ under Section 76-6-408;

5188 ~~[(z)]~~ (kk) theft of services~~[;]~~ under Section 76-6-409;

5189 ~~[(aa)]~~ (ll) forgery~~[;]~~ under Section 76-6-501;

5190 ~~[(bb)]~~ (mm) ~~[fraudulent use of a credit card; Sections]~~ unlawful use of financial
5191 transaction card under Section 76-6-506.2[;];

5192 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
5193 Section 76-6-506.3[; and];

5194 (oo) financial transaction card offenses under Section 76-6-506.6;

5195 ~~[(cc)]~~ (pp) deceptive business practices~~[;]~~ under Section 76-6-507;

5196 ~~[(dd)]~~ (qq) bribery or receiving bribe by person in the business of selection, appraisal,
5197 or criticism of goods[;] under Section 76-6-508;

5198 ~~[(ee)]~~ (rr) bribery of a labor official~~[;]~~ under Section 76-6-509;

5199 ~~[(ff)]~~ (ss) defrauding creditors~~[;]~~ under Section 76-6-511;

5200 ~~[(gg)]~~ (tt) acceptance of deposit by insolvent financial institution~~[;]~~ under Section
5201 76-6-512;

5202 ~~[(hh)]~~ (uu) unlawful dealing with property by fiduciary~~[;]~~ under Section 76-6-513;

5203 [~~(ii)~~] (vv) bribery or threat to influence contest[;] under Section [76-6-514](#);

5204 [~~(jj)~~] (ww) making a false credit report[;] under Section [76-6-517](#);

5205 [~~(kk)~~] (xx) criminal simulation[;] under Section [76-6-518](#);

5206 [~~(tt)~~] (yy) criminal usury[;] under Section [76-6-520](#);

5207 [~~(mm)~~] (zz) insurance fraud[;] under Section [76-6-521](#);

5208 [~~(nn)~~] (aaa) retail theft[;] under Section [76-6-602](#);

5209 [~~(oo)~~] (bbb) computer crimes[;] under Section [76-6-703](#);

5210 [~~(pp)~~] (ccc) identity fraud[;] under Section [76-6-1102](#);

5211 [~~(qq)~~] (ddd) mortgage fraud[;] under Section [76-6-1203](#);

5212 [~~(rr)~~] (eee) sale of a child[;] under Section [76-7-203](#);

5213 [~~(ss)~~] (fff) bribery to influence official or political actions[;] under Section [76-8-103](#);

5214 [~~(tt)~~] (ggg) [~~threats~~] threat to influence official or political action[;] under Section

5215 [76-8-104](#);

5216 [~~(uu)~~] (hhh) receiving bribe or bribery by public servant[;] under Section [76-8-105](#);

5217 [~~(vv)~~] (iii) receiving bribe [~~or bribery~~] for endorsement of person as a public servant[;]

5218 under Section [76-8-106](#);

5219 [~~(ww)~~ official misconduct, Sections]

5220 (iii) bribery for endorsement of person as public servant under Section [76-8-106.1](#);

5221 (kkk) official misconduct based on unauthorized act or failure of duty under Section

5222 [76-8-201](#) [~~and~~];

5223 (lll) official misconduct concerning inside information under Section [76-8-202](#);

5224 [~~(xx)~~] (mmm) obstruction of justice[;] in a criminal investigation or proceeding under

5225 Section [76-8-306](#);

5226 [~~(yy)~~] (nnn) acceptance of bribe or bribery to prevent criminal prosecution[;] under

5227 Section [76-8-308](#);

5228 (ooo) harboring or concealing offender who has escaped from official custody under

5229 Section [76-8-309.2](#);

5230 [~~(zz)~~] (ppp) making a false or inconsistent material [~~statements,~~] statement under

5231 Section [76-8-502](#);

5232 [~~(aaa)~~] (qqq) making a false or inconsistent [~~statements,~~] statement under Section

5233 [76-8-503](#);

5234 [(bbb)] (rrr) making a written false ~~[statements,]~~ statement under Section [76-8-504](#);

5235 [(ccc)] (sss) tampering with a witness ~~[or soliciting or receiving a bribe,]~~ under Section

5236 [76-8-508](#);

5237 [(ddd)] (ttt) retaliation against a witness, victim, or informant~~;~~ under Section

5238 [76-8-508.3](#);

5239 (uuu) receiving or soliciting a bribe as a witness under Section [76-8-508.7](#);

5240 [(eee)] (vvv) extortion or bribery to dismiss a criminal proceeding~~;~~ under Section

5241 [76-8-509](#);

5242 [(fff)] (www) tampering with evidence~~;~~ under Section [76-8-510.5](#);

5243 [(ggg)] (xxx) falsification or alteration of a government record~~;~~ under Section

5244 [76-8-511](#), if the record is a record described in Title 20A, Election Code, or Title 36, Chapter

5245 11, Lobbyist Disclosure and Regulation Act;

5246 [(hhh)] (yyy) public assistance fraud ~~[in violation of]~~ by an applicant for public

5247 assistance under Section ~~[[76-8-1203](#), [76-8-1204](#), or [76-8-1205](#)]~~ [76-8-1203.1](#);

5248 (zzz) public assistance fraud by a recipient of public assistance under Section

5249 [76-8-1203.3](#);

5250 (aaaa) public assistance fraud by a provider under Section [76-8-1203.5](#);

5251 (bbbb) fraudulently misappropriating public assistance funds under Section

5252 [76-8-1203.7](#);

5253 [(iii)] (ccc) ~~[unemployment insurance fraud,]~~ false statement to obtain or increase

5254 unemployment compensation under Section [76-8-1301](#);

5255 (dddd) false statement to prevent or reduce unemployment compensation or liability

5256 under Section [76-8-1302](#);

5257 (eee) unlawful failure to comply with Employment Security Act requirements under

5258 Section [76-8-1303](#);

5259 (fff) unlawful use or disclosure of employment information under Section [76-8-1304](#);

5260 [(jjj)] (gggg) intentionally or knowingly causing one animal to fight with another~~;~~

5261 under Subsection [76-9-301\(2\)\(d\)](#) or (e), or Section [76-9-301.1](#);

5262 [(kkk)] (hhhh) possession, use, or removal of explosives, chemical, or incendiary

5263 devices or parts~~;~~ under Section [76-10-306](#);

5264 [(HH)] (iiii) delivery to common carrier, mailing, or placement on premises of an

5265 incendiary device[;] under Section 76-10-307;

5266 [~~mmmm~~] (jjjj) possession of a deadly weapon with intent to assault[;] under Section

5267 76-10-507;

5268 [~~mmn~~] (kkkk) unlawful marking of pistol or revolver[;] under Section 76-10-521;

5269 [~~ooo~~] (llll) alteration of number or mark on pistol or revolver[;] under Section

5270 76-10-522;

5271 [~~ppp~~] (mmmm) forging or counterfeiting trademarks, trade name, or trade device[;]

5272 under Section 76-10-1002;

5273 [~~qqq~~] (nnnn) selling goods under counterfeited trademark, trade name, or trade

5274 devices[;] under Section 76-10-1003;

5275 [~~rrr~~] (oooo) sales in containers bearing registered trademark of substituted articles[;]

5276 under Section 76-10-1004;

5277 [~~sss~~] (pppp) selling or dealing with article bearing registered trademark or service

5278 mark with intent to defraud[;] under Section 76-10-1006;

5279 [~~ttt~~] (qqqq) gambling[;] under Section 76-10-1102;

5280 [~~uuu~~] (rrrr) gambling fraud[;] under Section 76-10-1103;

5281 [~~vvv~~] (ssss) gambling promotion[;] under Section 76-10-1104;

5282 [~~www~~] (tttt) possessing a gambling device or record[;] under Section 76-10-1105;

5283 [~~xxx~~] (uuuu) confidence game[;] under Section 76-10-1109;

5284 [~~yyy~~] (vvvv) distributing pornographic material[;] under Section 76-10-1204;

5285 [~~zzz~~] (wwww) inducing acceptance of pornographic material[;] under Section

5286 76-10-1205;

5287 [~~aaa~~] (xxxx) dealing in harmful material to a minor[;] under Section 76-10-1206;

5288 [~~bbb~~] (yyyy) distribution of pornographic films[;] under Section 76-10-1222;

5289 [~~ccc~~] (zzzz) indecent public displays[;] under Section 76-10-1228;

5290 [~~ddd~~] (aaaa) prostitution[;] under Section 76-10-1302;

5291 [~~eee~~] (bbbbb) aiding prostitution[;] under Section 76-10-1304;

5292 [~~fff~~] (ccccc) exploiting prostitution[;] under Section 76-10-1305;

5293 [~~ggg~~] (dddd) aggravated exploitation of prostitution[;] under Section 76-10-1306;

5294 [~~hhh~~] (eeee) communications fraud[;] under Section 76-10-1801;

5295 [~~iii~~] (ffff) [~~any~~] an act prohibited by the criminal provisions of Part 19, Money

5296 Laundering and Currency Transaction Reporting Act;

5297 [~~(jjjj)~~] (~~ggggg~~) vehicle compartment for contraband[;] under Section 76-10-2801;

5298 [~~(kkkk)~~] (~~hhhhh~~) [~~any~~] an act prohibited by the criminal provisions of the laws

5299 governing taxation in this state; [~~and~~] or

5300 [~~(HHH)~~] (~~iiii~~) [~~any~~] an act illegal under the laws of the United States and enumerated in

5301 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

5302 Section 141. Section 77-23a-8 is amended to read:

5303 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

5304 (1) The attorney general of the state, any assistant attorney general specially designated

5305 by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy

5306 district attorney specially designated by the county attorney or by the district attorney, may

5307 authorize an application to a judge of competent jurisdiction for an order for an interception of

5308 wire, electronic, or oral communications by any law enforcement agency of the state, the

5309 federal government or of any political subdivision of the state that is responsible for

5310 investigating the type of offense for which the application is made.

5311 (2) The judge may grant the order in conformity with the required procedures when the

5312 interception sought may provide or has provided evidence of the commission of:

5313 (a) [~~any~~] an act:

5314 (i) prohibited by the criminal provisions of:

5315 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

5316 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

5317 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

5318 (ii) punishable by a term of imprisonment of more than one year;

5319 (b) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 61, Chapter 1,

5320 Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

5321 (c) an offense:

5322 (i) of:

5323 (A) attempt[;] under Section 76-4-101;

5324 (B) conspiracy[;] under Section 76-4-201;

5325 (C) solicitation[;] under Section 76-4-203; and

5326 (ii) punishable by a term of imprisonment of more than one year;

- 5327 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
5328 more than one year[;] under Section 76-5-107.3;
- 5329 (e) (i) aggravated murder[;] under Section 76-5-202;
- 5330 (ii) murder[;] under Section 76-5-203; or
- 5331 (iii) manslaughter[;] under Section 76-5-205;
- 5332 (f) (i) kidnapping[;] under Section 76-5-301;
- 5333 (ii) child kidnapping[;] under Section 76-5-301.1;
- 5334 (iii) aggravated kidnapping[;] under Section 76-5-302;
- 5335 (iv) human trafficking[;] for labor under Section 76-5-308[;];
- 5336 (v) human trafficking for sexual exploitation under Section 76-5-308.1[;];
- 5337 (vi) [~~or~~] human trafficking of a child under Section 76-5-308.5[;,~~or~~];
- 5338 (vii) human smuggling[;] under Section 76-5-308.3; [~~or~~]
- 5339 [~~(v)~~] (viii) aggravated human trafficking[;] under Section 76-5-310[;]; or
- 5340 (ix) aggravated human smuggling[;] under Section 76-5-310.1;
- 5341 (g) (i) arson[;] under Section 76-6-102; or
- 5342 (ii) aggravated arson[;] under Section 76-6-103;
- 5343 (h) (i) burglary[;] under Section 76-6-202; or
- 5344 (ii) aggravated burglary[;] under Section 76-6-203;
- 5345 (i) (i) robbery[;] under Section 76-6-301; or
- 5346 (ii) aggravated robbery[;] under Section 76-6-302;
- 5347 (j) an offense:
- 5348 (i) of:
- 5349 (A) theft[;] under Section 76-6-404;
- 5350 (B) theft by deception[;] under Section 76-6-405; or
- 5351 (C) theft by extortion[;] under Section 76-6-406; and
- 5352 (ii) punishable by a maximum term of imprisonment of more than one year;
- 5353 (k) an offense of receiving stolen property that is punishable by a maximum term of
- 5354 imprisonment of more than one year[;] under Section 76-6-408;
- 5355 (l) a financial card transaction offense punishable by a maximum term of imprisonment
- 5356 of more than one year[;] under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;
- 5357 (m) bribery of a labor official[;] under Section 76-6-509;

- 5358 (n) bribery or threat to influence a publicly exhibited contest[;] under Section
5359 76-6-514;
- 5360 (o) a criminal simulation offense punishable by a maximum term of imprisonment of
5361 more than one year[;] under Section 76-6-518;
- 5362 (p) criminal usury[;] under Section 76-6-520;
- 5363 (q) insurance fraud punishable by a maximum term of imprisonment of more than one
5364 year[;] under Section 76-6-521;
- 5365 (r) a violation ~~[of]~~ under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act,
5366 punishable by a maximum term of imprisonment of more than one year[;] under Section
5367 76-6-703;
- 5368 (s) bribery to influence official or political actions[;] under Section 76-8-103;
- 5369 (t) misusing public money or public property[;] under Section 76-8-402;
- 5370 (u) tampering with a witness ~~[or soliciting or receiving a bribe,]~~ under Section
5371 76-8-508;
- 5372 (v) retaliation against a witness, victim, or informant[;] under Section 76-8-508.3;
- 5373 (w) tampering ~~[with a juror, retaliation]~~ or retaliating against a juror[;] under Section
5374 76-8-508.5;
- 5375 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 5376 ~~[(x)]~~ (y) extortion or bribery to dismiss a criminal proceeding[;] under Section
5377 76-8-509;
- 5378 ~~[(y)]~~ (z) obstruction of justice[;] in a criminal investigation or proceeding under
5379 Section 76-8-306;
- 5380 (aa) harboring or concealing offender who has escaped from official custody under
5381 Section 76-8-309.2;
- 5382 ~~[(z)]~~ (bb) destruction of property to interfere with ~~[preparation]~~ preparations for
5383 defense or war[;] under Section 76-8-802;
- 5384 ~~[(aa)]~~ (cc) an attempt to commit crimes of sabotage[;] under Section 76-8-804;
- 5385 ~~[(bb)]~~ (dd) conspiracy to commit crimes of sabotage[;] under Section 76-8-805;
- 5386 ~~[(cc)]~~ (ee) advocating criminal syndicalism or sabotage[;] under Section 76-8-902;
- 5387 ~~[(dd)]~~ (ff) ~~[assembly]~~ assembling for advocating criminal syndicalism or sabotage[;]
5388 under Section 76-8-903;

5389 [~~(ee)~~] (gg) riot punishable by a maximum term of imprisonment of more than one
5390 year[;] under Section [76-9-101](#);

5391 [~~(ff)~~] (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions
5392 punishable by a maximum term of imprisonment of more than one year[;] under Section
5393 [76-9-301.1](#);

5394 [~~(gg)~~] (ii) possession, use, or removal of an explosive, chemical, or incendiary device
5395 and parts[;] under Section [76-10-306](#);

5396 [~~(hh)~~] (jj) delivery to a common carrier or mailing of an explosive, chemical, or
5397 incendiary device[;] under Section [76-10-307](#);

5398 [~~(ii)~~] (kk) exploiting prostitution[;] under Section [76-10-1305](#);

5399 [~~(jj)~~] (ll) aggravated exploitation of prostitution[;] under Section [76-10-1306](#);

5400 [~~(kk)~~] (mm) bus hijacking or assault with intent to commit hijacking[;] under Section
5401 [76-10-1504](#);

5402 [~~(ll)~~] (nn) discharging firearms and hurling missiles[;] under Section [76-10-1505](#);

5403 [~~(mm)~~] (oo) violations [~~(of)~~] under Title 76, Chapter 10, Part 16, Pattern of Unlawful
5404 Activity Act, and the offenses listed under the definition of unlawful activity in the act,
5405 including the offenses not punishable by a maximum term of imprisonment of more than one
5406 year when those offenses are investigated as predicates for the offenses prohibited by the act[;]
5407 under Section [76-10-1602](#);

5408 [~~(nn)~~] (pp) communications fraud[;] under Section [76-10-1801](#);

5409 [~~(oo)~~] (qq) money laundering[;] under Sections [76-10-1903](#) and [76-10-1904](#); or

5410 [~~(pp)~~] (rr) reporting by a person engaged in a trade or business when the offense is
5411 punishable by a maximum term of imprisonment of more than one year[;] under Section
5412 [76-10-1906](#).

5413 Section 142. Section **77-36-1** is amended to read:

5414 **77-36-1. Definitions.**

5415 As used in this chapter:

5416 (1) "Cohabitant" means the same as that term is defined in Section [78B-7-102](#).

5417 (2) "Department" means the Department of Public Safety.

5418 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
5419 3, Divorce.

5420 (4) "Domestic violence" or "domestic violence offense" means any criminal offense
5421 involving violence or physical harm or threat of violence or physical harm, or any attempt,
5422 conspiracy, or solicitation to commit a criminal offense involving violence or physical harm,
5423 when committed by one cohabitant against another. "Domestic violence" or "domestic
5424 violence offense" includes commission or attempt to commit, any of the following offenses by
5425 one cohabitant against another:

5426 (a) aggravated assault~~[, as described in]~~ under Section 76-5-103;

5427 (b) aggravated cruelty to an animal~~[, as described in]~~ under Subsection 76-9-301(4),
5428 with the intent to harass or threaten the other cohabitant;

5429 (c) assault~~[, as described in]~~ under Section 76-5-102;

5430 (d) criminal homicide~~[, as described in]~~ under Section 76-5-201;

5431 (e) harassment~~[, as described in]~~ under Section 76-5-106;

5432 (f) electronic communication harassment~~[, as described in]~~ under Section 76-9-201;

5433 (g) kidnapping, child kidnapping, or aggravated kidnapping~~[, as described in]~~ under
5434 Sections 76-5-301, 76-5-301.1, and 76-5-302;

5435 (h) mayhem~~[, as described in]~~ under Section 76-5-105;

5436 (i) sexual offenses~~[, as described in]~~ under Title 76, Chapter 5, Part 4, Sexual
5437 Offenses~~[, and]~~;

5438 (j) sexual exploitation of a minor ~~[and aggravated sexual exploitation of a minor, as
5439 described in Sections]~~ under Section 76-5b-201 ~~[and]~~;

5440 (k) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

5441 (l) stalking~~[, as described in]~~ under Section 76-5-106.5;

5442 (m) unlawful detention ~~[or]~~ and unlawful detention of a minor~~[, as described in]~~
5443 under Section 76-5-304;

5444 (n) violation of a protective order or ex parte protective order~~[, as described in]~~
5445 under Section 76-5-108;

5446 (o) ~~[any]~~ an offense against property ~~[described in]~~ under Title 76, Chapter 6,
5447 Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or
5448 Title 76, Chapter 6, Part 3, Robbery;

5449 (p) possession of a deadly weapon with criminal intent~~[, as described in]~~ under
5450 Section 76-10-507;

5451 ~~[(o)]~~ (q) discharge of a firearm from a vehicle, near a highway, or in the direction of
 5452 any person, building, or vehicle~~[, as described in]~~ under Section 76-10-508;

5453 ~~[(p)]~~ (r) disorderly conduct~~[, as defined in]~~ under Section 76-9-102, if a conviction or
 5454 adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator
 5455 was originally charged with a domestic violence offense otherwise described in this Subsection
 5456 (4), except that a conviction or adjudication of disorderly conduct as a domestic violence
 5457 offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor
 5458 crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms
 5459 Act, 18 U.S.C. Sec. 921 et seq.;

5460 ~~[(q)]~~ (s) child abuse~~[, as described in]~~ under Section 76-5-114;

5461 ~~[(r)]~~ (t) threatening use of a dangerous weapon~~[, as described in]~~ under Section
 5462 76-10-506;

5463 ~~[(s)]~~ (u) threatening violence~~[, as described in]~~ under Section 76-5-107;

5464 ~~[(t)]~~ (v) tampering with a witness~~[, as described in]~~ under Section 76-8-508;

5465 ~~[(u)]~~ (w) retaliation against a witness ~~[or]~~ victim, ~~[as described in]~~ or informant under
 5466 Section 76-8-508.3;

5467 (x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

5468 ~~[(v)]~~ (y) unlawful distribution of an intimate image~~[, as described in]~~ under Section
 5469 76-5b-203~~[, or]~~;

5470 (z) unlawful distribution of a counterfeit intimate image~~[, as described in]~~ under
 5471 Section 76-5b-205;

5472 ~~[(w)]~~ (aa) sexual battery~~[, as described in]~~ under Section 76-9-702.1;

5473 ~~[(x)]~~ (bb) voyeurism~~[, as described in]~~ under Section 76-9-702.7;

5474 ~~[(y)]~~ (cc) damage to or interruption of a communication device~~[, as described in]~~ under
 5475 Section 76-6-108; or

5476 ~~[(z)]~~ (dd) an offense ~~[described in]~~ under Subsection 78B-7-806(1).

5477 (5) "Jail release agreement" means the same as that term is defined in Section
 5478 78B-7-801.

5479 (6) "Jail release court order" means the same as that term is defined in Section
 5480 78B-7-801.

5481 (7) "Marital status" means married and living together, divorced, separated, or not

5482 married.

5483 (8) "Married and living together" means a couple whose marriage was solemnized
5484 under Section 30-1-4 or 30-1-6 and who are living in the same residence.

5485 (9) "Not married" means any living arrangement other than married and living together,
5486 divorced, or separated.

5487 (10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

5488 (11) "Pretrial protective order" means a written order:

5489 (a) specifying and limiting the contact a person who has been charged with a domestic
5490 violence offense may have with an alleged victim or other specified individuals; and

5491 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,
5492 pending trial in the criminal case.

5493 (12) "Sentencing protective order" means a written order of the court as part of
5494 sentencing in a domestic violence case that limits the contact an individual who is convicted or
5495 adjudicated of a domestic violence offense may have with a victim or other specified
5496 individuals under Section 78B-7-804.

5497 (13) "Separated" means a couple who have had their marriage solemnized under
5498 Section 30-1-4 or 30-1-6 and who are not living in the same residence.

5499 (14) "Victim" means a cohabitant who has been subjected to domestic violence.

5500 Section 143. Section 77-36-1.1 is amended to read:

5501 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**
5502 **offenses.**

5503 (1) As used in this section:

5504 (a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

5505 (ii) "Convicted" includes:

5506 (A) a plea of guilty or guilty with a mental condition;

5507 (B) a plea of no contest; and

5508 (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas
5509 in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in
5510 accordance with the plea in abeyance agreement.

5511 (iii) "Convicted" does not include an adjudication in juvenile court.

5512 (b) "Offense against the person" means commission or attempt to commit an offense

5513 under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide,
5514 Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital
5515 Mutilation, by one cohabitant against another.

5516 (c) "Property damage offense" means the commission or attempt to commit an offense
5517 under Section [76-6-106](#) or [76-6-106.1](#) by one cohabitant against another.

5518 (d) "Qualifying domestic violence offense" means:

5519 (i) a domestic violence offense in Utah; or

5520 (ii) an offense in any other state, or in any district, possession, or territory of the United
5521 States, that would be a domestic violence offense under Utah law.

5522 (2) An individual who is convicted of a domestic violence offense is guilty of a class B
5523 misdemeanor if:

5524 (a) the domestic violence offense described in this Subsection (2) is designated by law
5525 as a class C misdemeanor; and

5526 (b) the individual commits or is convicted of the domestic violence offense described
5527 in this Subsection (2):

5528 (i) within 10 years after the day on which the individual is convicted of a qualifying
5529 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5530 (ii) within five years after the day on which the individual is convicted of a [~~criminal~~
5531 ~~mischief~~] property damage offense.

5532 (3) An individual who is convicted of a domestic violence offense is guilty of a class A
5533 misdemeanor if:

5534 (a) the domestic violence offense described in this Subsection (3) is designated by law
5535 as a class B misdemeanor; and

5536 (b) the individual commits or is convicted of the domestic violence offense described
5537 in this Subsection (3):

5538 (i) within 10 years after the day on which the individual is convicted of a qualifying
5539 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5540 (ii) within five years after the day on which the individual is convicted of a [~~criminal~~
5541 ~~mischief~~] property damage offense.

5542 (4) An individual who is convicted of a domestic violence offense is guilty of a third
5543 degree felony if:

5544 (a) the domestic violence offense described in this Subsection (4) is designated by law
5545 as a class B misdemeanor offense against the person and the individual:

5546 (i) (A) commits or is convicted of the domestic violence offense described in this
5547 Subsection (4) within 10 years after the day on which the individual is convicted of a
5548 qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense;
5549 and

5550 (B) is convicted of another qualifying domestic violence offense that is not a [~~criminal~~
5551 ~~mischief~~] property damage offense after the day on which the individual is convicted of the
5552 qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on
5553 which the individual is convicted of the domestic violence offense described in this Subsection
5554 (4);

5555 (ii) (A) commits or is convicted of the domestic violence offense described in this
5556 Subsection (4) within five years after the day on which the individual is convicted of a
5557 [~~criminal mischief~~] property damage offense; and

5558 (B) is convicted of another [~~criminal mischief~~] property damage offense after the day
5559 on which the individual is convicted of the [~~criminal mischief~~] property damage offense
5560 described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of
5561 the domestic violence offense described in this Subsection (4); or

5562 (iii) commits or is convicted of the domestic violence offense described in this
5563 Subsection (4) within 10 years after the day on which the individual is convicted of a
5564 qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense
5565 and within five years after the day on which the individual is convicted of a [~~criminal mischief~~]
5566 property damage offense; and

5567 (b) (i) the domestic violence offense described in this Subsection (4) is designated by
5568 law as a class A misdemeanor; and

5569 (ii) the individual commits or is convicted of the domestic violence offense described
5570 in this Subsection (4):

5571 (A) within 10 years after the day on which the individual is convicted of a qualifying
5572 domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

5573 (B) within five years after the day on which the individual is convicted of a [~~criminal~~
5574 ~~mischief~~] property damage offense.

5575 Section 144. Section 77-37-3 is amended to read:

5576 **77-37-3. Bill of rights.**

5577 (1) The bill of rights for victims and witnesses is:

5578 (a) Victims and witnesses have a right to be informed as to the level of protection from
5579 intimidation and harm available to them, and from what sources, as they participate in criminal
5580 justice proceedings as designated by Section 76-8-508, regarding [~~witness tampering~~]
5581 tampering with a witness, and Section 76-8-509, regarding [~~threats against a victim~~] extortion
5582 or bribery to dismiss a criminal proceeding. Law enforcement, prosecution, and corrections
5583 personnel have the duty to timely provide this information in a form which is useful to the
5584 victim.

5585 (b) Victims and witnesses, including children and their guardians, have a right to be
5586 informed and assisted as to their role in the criminal justice process. All criminal justice
5587 agencies have the duty to provide this information and assistance.

5588 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
5589 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
5590 All criminal justice agencies have the duty to provide these explanations.

5591 (d) Victims and witnesses should have a secure waiting area that does not require them
5592 to be in close proximity to defendants or the family and friends of defendants. Agencies
5593 controlling facilities shall, whenever possible, provide this area.

5594 (e) Victims may seek restitution or reparations, including medical costs, as provided in
5595 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime
5596 Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve
5597 victims have the duty to have a functional knowledge of the procedures established by the
5598 Crime Victim Reparations Board and to inform victims of these procedures.

5599 (f) Victims and witnesses have a right to have any personal property returned as
5600 provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or
5601 Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no
5602 longer needed for court law enforcement or prosecution purposes.

5603 (g) Victims and witnesses have the right to reasonable employer intercession services,
5604 including pursuing employer cooperation in minimizing employees' loss of pay and other
5605 benefits resulting from their participation in the criminal justice process. Officers of the court

5606 shall provide these services and shall consider victims' and witnesses' schedules so that
5607 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
5608 request that the responsible agency intercede with employers or other parties.

5609 (h) Victims and witnesses, particularly children, should have a speedy disposition of
5610 the entire criminal justice process. All involved public agencies shall establish policies and
5611 procedures to encourage speedy disposition of criminal cases.

5612 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
5613 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
5614 have the duty to provide these notifications. Defense counsel and others have the duty to
5615 provide timely notice to prosecution of any continuances or other changes that may be required.

5616 (j) Victims of sexual offenses have the following rights:

5617 (i) the right to request voluntary testing for themselves for HIV infection as provided in
5618 Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV
5619 infection as provided in Section 53-10-802;

5620 (ii) the right to be informed whether a DNA profile was obtained from the testing of
5621 the rape kit evidence or from other crime scene evidence;

5622 (iii) the right to be informed whether a DNA profile developed from the rape kit
5623 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index
5624 System;

5625 (iv) the right to be informed whether there is a match between a DNA profile
5626 developed from the rape kit evidence or other crime scene evidence and a DNA profile
5627 contained in the Utah Combined DNA Index System, provided that disclosure would not
5628 impede or compromise an ongoing investigation; and

5629 (v) the right to designate a person of the victim's choosing to act as a recipient of the
5630 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

5631 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency
5632 communicate with the victim or the victim's designee regarding the status of DNA testing,
5633 absent a specific request received from the victim or the victim's designee.

5634 (2) The law enforcement agency investigating a sexual offense may:

5635 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the
5636 request of a victim or the victim's designee and is the designated agency to provide that

5637 information to the victim or the victim's designee;

5638 (b) require that the victim's request be in writing; and

5639 (c) respond to the victim's request with verbal communication, written communication,
5640 or by email, if an email address is available.

5641 (3) The law enforcement agency investigating a sexual offense has the following
5642 authority and responsibilities:

5643 (a) If the law enforcement agency determines that DNA evidence will not be analyzed
5644 in a case where the identity of the perpetrator has not been confirmed, the law enforcement
5645 agency shall notify the victim or the victim's designee.

5646 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence
5647 or other crime scene evidence from an unsolved sexual assault case, the law enforcement
5648 agency shall provide written notification of that intention and information on how to appeal the
5649 decision to the victim or the victim's designee of that intention.

5650 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days
5651 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

5652 (c) A law enforcement agency responsible for providing information under Subsections
5653 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the
5654 victim or the victim's designee, shall advise the victim or the victim's designee of any
5655 significant changes in the information of which the law enforcement agency is aware.

5656 (d) The law enforcement agency investigating the sexual offense is responsible for
5657 informing the victim or the victim's designee of the rights established under Subsections
5658 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

5659 (4) Informational rights of the victim under this chapter are based upon the victim
5660 providing the current name, address, telephone number, and email address, if an email address
5661 is available, of the person to whom the information should be provided to the criminal justice
5662 agencies involved in the case.

5663 Section 145. **Repealer.**

5664 This bill repeals:

5665 Section **76-8-314, Threatening elected officials -- "Elected official" defined.**

5666 Section **76-8-315, Threatening elected officials -- Penalties for assault.**

5667 Section **76-8-404, Making profit from or misusing public money or public property**

- 5668 -- **Disqualification from office -- Criminal penalty.**
- 5669 Section **76-8-505, False or inconsistent statements -- Proof of falsity of statements --**
- 5670 **Irregularities no defense.**
- 5671 Section **76-8-701, Definitions.**
- 5672 Section **76-8-702, Purpose.**
- 5673 Section **76-8-707, Assistance by local authorities.**
- 5674 Section **76-8-709, Enforcement of laws by local agencies not limited.**
- 5675 Section **76-8-716, Request for assistance from state and local law enforcement**
- 5676 **authorities.**
- 5677 Section **76-8-717, Violations -- Classifications of offenses.**
- 5678 Section **76-8-801, Definitions.**
- 5679 Section **76-8-806, Facts kept secret until complaint filed.**
- 5680 Section **76-8-808, Detention and arrest without warrant of unauthorized persons**
- 5681 **on posted premises.**
- 5682 Section **76-8-1101, Criminal offenses and penalties relating to revenue and**
- 5683 **taxation -- Rulemaking authority -- Statute of limitations.**
- 5684 Section **76-8-1202, Application of part.**
- 5685 Section **76-8-1204, Disclosure by provider required -- Penalty.**
- 5686 Section **76-8-1205, Public assistance fraud defined.**
- 5687 Section **76-8-1206, Penalties for public assistance fraud.**
- 5688 Section **76-8-1401, Definitions.**
- 5689 Section 146. **Effective date.**
- 5690 This bill takes effect on May 1, 2024.